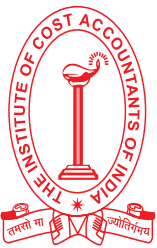


# Income Tax Ready Reckoner

Tax Year 2026-27



**ICMAI**  
THE INSTITUTE OF  
COST ACCOUNTANTS OF INDIA

भारतीय लागत लेखाकार संस्थान

Statutory Body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)

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Behind every successful business decision, there is always a **CMA**

## About the Institute

The Institute of Cost Accountants of India is a statutory body established under an Act of Parliament in 1959. As part of its obligations, the Institute regulates the profession of Cost and Management Accountancy, enrolls students for its courses, provides coaching facilities to the students, organises professional development programmes for the members and undertakes research programmes in the field of Cost and Management Accountancy. The Institute pursues the vision of cost competitiveness, cost management, efficient use of resources and structured approach to cost accounting as the key drivers of the profession. In today's world, the profession of conventional accounting and auditing has taken a back seat and cost and management accountants are increasingly contributing toward the management of scarce resources and apply strategic decisions. This has opened up further scope and tremendous opportunities for cost accountants in India and abroad.

After an amendment passed by Parliament of India, the

Institute is now renamed as "The Institute of Cost Accountants of India" from "The Institute of Cost and Works Accountants of India". This step is aimed towards synergising with the global management accounting bodies, sharing the best practices which will be useful to large number of trans-national Indian companies operating from India and abroad to remain competitive. With the current emphasis on management of resources, the specialized knowledge of evaluating operating efficiency and strategic management the professionals are known as "Cost and Management Accountants (CMAs)". The Institute is the largest Cost & Management Accounting body in the world, having approximately 6,00,000+ students and 1,00,000+ qualified professionals all over the globe. The Institute headquartered at Delhi operates through four regional councils at Mumbai, Chennai, Kolkata & Delhi and 113 Chapters situated across the country as well as 11 Overseas Centres. It functions under the jurisdiction of the Ministry of Corporate Affairs, Government of India.

### Vision Statement

"The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally."

### Mission Statement

"The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting."

### Institute Motto

असतोमा सद्गमय  
तमसोमा ज्योतिर् गमय  
मृत्योर्मा मृतं गमय  
ॐ शान्ति शान्ति शान्तिः

From ignorance, lead me to truth  
From darkness, lead me to light  
From death, lead me to immortality  
Peace, Peace, Peace

### Objectives of Taxation Committee:

- Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation
- Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders
- Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy
- Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities
- Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners, stakeholders and also Crash Courses on GST for Colleges and Universities

### Activities of Tax Research Department:

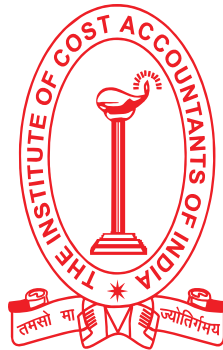
- Webinars
- Representations to the Government
- Top Stories
- Workshops & Seminars on Taxation
- Corporate Trainings
- Taxation Help Desk
- Fortnightly Tax Bulletin
- Indirect Tax - Certificate Course on GST & Advance GST Course
- Direct Tax - Certificate Course on TDS & Filing of Return
- Crash Course on GST for Colleges & Universities
- Various Publications in Direct Tax & Indirect Tax

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Behind every successful business decision, there is always a **CMA**

# Income Tax Ready Reckoner



**The Institute of Cost Accountants of India**  
(Statutory body under an Act of Parliament)

First Edition June 2026

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The President  
The Institute of Cost Accountants of India

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**The Institute of Cost Accountants of India**

**(Statutory body under an Act of Parliament)**

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**Disclaimer:**

This publication has been prepared with due care and diligence to provide a compilation of the statutory provisions relating to the Goods and Services Tax Acts and Rules for academic and reference purposes. While every effort has been made to ensure the accuracy and completeness of the information contained herein, The Institute of Cost Accountants of India, and the compiler shall not be responsible for any errors or omissions that may have inadvertently occurred.

Every effort has been made to avoid errors or omissions in this publication. Any mistake, error, or discrepancy noted may be brought to our notice, which shall be taken care of in the next edition. The reader/user must cross-check the contents with the original Act and amendments as published in the Government Gazette.



## **President's Message**

The publication of the **Income Tax Ready Reckoner** by the Tax Research Department of The Institute of Cost Accountants of India, under the initiative of the Direct Taxation Committee, is a welcome and significant endeavour.

In an increasingly dynamic and competitive economic environment, sound financial planning and swift compliance have become integral components of corporate and professional strategy. As organizations navigate growth and operational efficiency, having immediate access to clear, concise, and structured tax computations assumes greater significance. These day-to-day requirements necessitate a thorough understanding of the evolving legislative and regulatory framework.

At a time when the Income Tax Act, 2025 seeks to simplify and modernize the direct tax framework, it is imperative for professionals and businesses to effortlessly grasp tax implications and align their operations with emerging policy objectives. This Ready Reckoner addresses these practical considerations by providing comprehensive insights, statutory tax rates, compliance requirements, and quick-reference highlights associated with recent developments. Such knowledge resources play a vital role in enhancing professional competence and facilitating informed, efficient decision-making.

The Direct Taxation Committee deserves appreciation for conceptualizing this important initiative, and the Tax Research Department merits commendation for its dedicated efforts in bringing out this comprehensive publication.

It is expected that this Ready Reckoner will serve as a valuable reference for Cost Accountants, tax professionals, corporate leaders, academicians, researchers, and students seeking to navigate the intricacies of direct taxes within the evolving tax framework.

Best wishes are extended for the success of this publication, and congratulations are conveyed to all those associated with this commendable endeavour.

Jai Hind!

With best wishes,

A handwritten signature in blue ink, appearing to read 'TCA Prasad', with a long horizontal flourish extending to the right.

**CMA TCA Srinivasa Prasad**

President, ICMAI

Date: 25.06.2026



## **Vice President's Message**

The publication of the **Income Tax Ready Reckoner** by the Tax Research Department of The Institute of Cost Accountants of India, under the initiative of the Direct Taxation Committee, is both a timely and highly commendable endeavour.

In an era marked by rapid technological change, evolving market dynamics, and increasing regulatory complexity, sound financial planning and swift statutory compliance have become vital components of corporate and professional strategy. As organizations and individuals navigate daily financial decisions, having immediate access to clear, concise, and structured tax computations assumes greater significance. Efficient tax management not only facilitates broader business objectives but also optimizes financial outcomes, enhances compliance, and minimizes potential disputes.

With the introduction of the Income Tax Act, 2025, which seeks to simplify and modernize the direct tax framework, professionals and businesses are required to develop a deeper understanding of the emerging statutory rules. This Ready Reckoner directly addresses these practical needs by providing a quick-reference guide to statutory tax rates, compliance timelines, and key highlights associated with recent amendments.

Cost and Management Accountants (CMAs) possess a unique advantage in this domain. Their expertise in financial planning, strategic decision-making, and performance analysis enables them to apply tax provisions from a holistic business perspective. Such comprehensive knowledge resources play a pivotal role in enhancing professional competence and enabling CMAs to effectively serve as trusted advisors to the industry.

I congratulate the Direct Taxation Committee and the Tax Research Department of the Institute for their dedicated efforts in bringing out this publication. Their initiative beautifully reflects the Institute's ongoing commitment to strengthening professional knowledge and expanding the value proposition of the CMA profession.

I am confident that this Ready Reckoner will serve as an invaluable reference and practical guide for Cost Accountants, tax professionals, corporate decision-makers, academicians, and students alike.

**I extend my best wishes for the success of this publication.**

With best wishes,

A handwritten signature in blue ink, appearing to read 'Neeraj Joshi', written over a light blue grid background.

**CMA Neeraj Dhananjay Joshi**

Vice-President, ICMAI

Date: 25.06.2026



### **Chairman's Message**

It gives me great pleasure to present the **Income Tax Ready Reckoner**, an initiative of the Direct Taxation Committee, published by The Institute of Cost Accountants of India (ICMAI) Tax Research Department.

The ongoing transformation of India's direct tax framework presents an opportune moment to revisit, simplify, and strengthen our understanding of the evolving tax landscape. As professionals and organizations navigate these regulatory shifts, having immediate access to precise, reliable, and structured tax data is critical for ensuring seamless compliance and effective financial planning.

Recognizing this need, the Direct Taxation Committee initiated the development of this Ready Reckoner to serve as a comprehensive, fast-access, and highly practical reference tool. This publication has been meticulously designed to distil complex statutory provisions into an easy-to-digest format.

#### **Key highlights of this Ready Reckoner include:**

- **Tax Rates & Slabs:** Quick-reference tables for various assessee categories under the updated framework.
- **Compliance Calendar:** Critical timelines and due dates to ensure flawless regulatory adherence.
- **Amendments & Transitions:** Clear breakdowns of emerging developments, updated provisions, and key changes introduced by the Income Tax Act, 2025.
- **Exemptions & Deductions:** A streamlined view of available planning opportunities and associated risks to assist in informed decision-making.

I place on record my sincere appreciation for the invaluable support and guidance of the President and Vice President of the Institute. I also highly commend the Tax Research Department, contributors, reviewers, and subject experts whose rigorous efforts and dedication have enriched this publication.

I am confident that this Ready Reckoner will serve as an indispensable knowledge resource for members of the profession, tax practitioners, policymakers, industry leaders, academicians, and students. I hope it contributes meaningfully to operational efficiency, informed discourse, and professional excellence across the tax fraternity.

With best wishes

**CMA Rajendra Singh Bhati**  
Chairman – Direct Taxation Committee  
ICMAI

Date: 25.06.2026



### **Chairman's Message**

I am pleased to learn that the Tax Research Department of the Institute, under the initiative of the Direct Taxation Committee, is publishing the **Income Tax Ready Reckoner**.

Navigating the dynamic direct tax framework continues to be one of the most significant areas of corporate and tax practice. As enterprises seek to adapt to changing economic realities and business requirements, immediate access to structured and simplified tax summaries is becoming increasingly vital. Understanding the real-time tax implications of financial transactions is therefore essential for ensuring both regulatory compliance and tax efficiency.

This **Income Tax Ready Reckoner** provides a comprehensive examination of the practical tax aspects and addresses the core compliance requirements, recent legislative developments, and key challenges faced by businesses and professionals. To maximize utility, the publication simplifies statutory complexities through quick-reference provisions and actionable tools.

#### **Key highlights of this publication include:**

- **Core Tax Strategies:** Insights into practical planning strategies to ensure tax efficiency across operations.
- **Legislative Updates:** A breakdown of recent legislative developments and evolving statutory provisions.
- **Practical Applicability:** Step-by-step practical illustrations and case studies that enhance its relevance for everyday practice.

I congratulate the Direct Taxation Committee for spearheading this initiative and appreciate the dedicated efforts of the Tax Research Department in bringing out this valuable publication. Such collaborative initiatives contribute significantly to the development of professional knowledge and thought leadership in taxation.

I am confident that the Ready Reckoner will serve as an authoritative reference for professionals, corporates, academicians, and students alike.

With best wishes

A handwritten signature in blue ink, appearing to read 'Bibhuti', with a long horizontal stroke extending to the right.

**CMA Bibhuti Bhusan Nayak**

Chairman – Task Force on Income Tax Act, 2025

ICMAI

Date: 25.06.2026

## Preface

The Income Tax landscape in India has undergone a transformative journey, rapidly moving toward a more transparent, automated, and technology-driven ecosystem. Central to this evolution is the introduction of faceless assessments, real-time data integration through the Annual Information Statement (AIS) and Taxpayer Information Summary (TIS), and pre-filled tax returns. While this digital infrastructure is built to simplify compliance and enhance the taxpayer experience, its practical implementation requires businesses, individuals, and tax practitioners to navigate complex procedural workflows, real-time data matching, and stricter timelines.

For tax professionals and taxpayers alike, maintaining flawless compliance and accurate tax planning is no longer optional—it is critical for financial health and regulatory standing. A clear, up-to-date understanding of the latest statutory amendments, deduction limits, corporate tax structures, and procedural updates is indispensable to optimize tax liabilities and minimize the risk of litigation.

The “**Income Tax Ready Reckoner**” has been conceived to address this vital need. This publication offers a comprehensive, structured, and practice-oriented reference for navigating the intricacies of direct tax laws. It covers the entire spectrum of income tax administration, including the dual-tax regime choice, capital gains complexities, TDS/TCS compliance, assessment procedures, and the operational aspects of handling scrutiny notices. Special emphasis has been placed on simplifying complex statutory provisions and aligning legal requirements with day-to-day financial execution.

This reckoner aims to bridge the gap between policy intent and ground-level implementation. By presenting the subject in a systematic manner, supported by practical illustrations, tax calculators, and step-by-step guidance, this publication seeks to assist professionals in achieving accurate compliance and making informed strategic financial decisions.

The Tax Research Department places on record its sincere appreciation to the authors and contributors of this reckoner for their scholarly depth, subject-matter expertise, and extensive experience in the field of direct taxation. Their analytical approach and practical orientation have significantly enhanced the quality, relevance, and usability of this publication.

It is our earnest hope that the **Income Tax Ready Reckoner** will serve as a dependable guide for tax practitioners, business leaders, consultants, and students, enabling them to navigate the evolving digital landscape of direct taxes with confidence, clarity, and compliance.

Thank You,

**Tax Research Department**  
**ICMAI**

Date: 25.06.2026



# Contents

		<b>Page No.</b>
<b>Chapter 1:</b>	Basic Concepts	1 - 12
<b>Chapter 2:</b>	Residential Status	13 - 26
<b>Chapter 3:</b>	Income Exempt from Tax	27 - 40
<b>Chapter 4:</b>	Agricultural Income	41 - 46
<b>Chapter 5:</b>	Salaries	47 - 100
<b>Chapter 6:</b>	Income From House Property	101 - 122
<b>Chapter 7:</b>	Profits & Gains of Business or Profession	123 - 202
<b>Chapter 8:</b>	Capital Gains	203 - 282
<b>Chapter 9:</b>	Income From Other Sources	283 - 308
<b>Chapter 10:</b>	Clubbing Of Income	309 - 314
<b>Chapter 11:</b>	Set Off and Carry Forward	315 - 326
<b>Chapter 12:</b>	Deductions & Relief	327 - 380
<b>Chapter 13:</b>	Relief	381 - 388
<b>Chapter 14:</b>	Advance Tax	389 - 396
<b>Chapter 15:</b>	Tax Deduction at Source	397 - 432
<b>Chapter 16:</b>	Permanent Account Number	433 - 440
<b>Chapter 17:</b>	Return of Income	441 - 456
<b>Chapter 18:</b>	Intimation	457 - 458
<b>Chapter 19:</b>	Interest	459 - 470
<b>Chapter 20:</b>	Refund	471 - 474
<b>Chapter 21:</b>	Penalties	475 - 492
<b>Chapter 22:</b>	Company Assessment	493 - 502
<b>Chapter 23:</b>	Registered Non-Profit Organisation	503 - 522
<b>Chapter 24:</b>	Mode of Payment	523 - 528
	<b>Appendix - I</b> [Rule 25] Table of Rates at which depreciation is admissible	529 - 536
	Form, Due Date & Penalty	537 - 542



## BASIC CONCEPTS

"It was only for the good of his subjects that he collected taxes from them, just as the Sun draws moisture from the Earth to give it back a thousand folds"

– Kalidas in Raghuvansh eulogizing King Dalip

Section 4 provides that income tax is charged on the income earned by a person during the tax year. Such income is chargeable to tax at the rates prescribed under the relevant annual Finance Act

Under the Income-tax Act, 1961, the taxation system followed the dual-year concept comprising the "Previous Year" and the "Assessment Year". However, the Income-tax Act, 2025, only a single reference concept, namely the "Tax Year", has been adopted.

### **Taxpoint:**

- Once tax year ends, return is required to be furnished and assessment thereof takes place after the end of tax year
- In general, the "Tax Year" corresponds to the erstwhile "Previous Year" under the Income-tax Act, 1961.

### **Tax Year [Sec. 3]**

Tax Year means the 12 months period of the financial year commencing on the 1st April. It is mandatory for all assessee to follow financial year (from 1<sup>st</sup> April to 31<sup>st</sup> March) as tax year for Income-Tax purpose.

### **Determination of the first tax year in case of a newly set-up business or profession or for a new source of income**

In case of	Tax year is the period
Business or profession being newly set-up	Beginning with the date of setting up of the business & ending on 31 <sup>st</sup> March of that financial year.
A source of income newly coming into existence	Beginning with the date on which the new source of income comes into existence & ending on 31 <sup>st</sup> March of that financial year.

### **Taxpoint:**

1. Above explanation signifies that the first tax year may be a period of less than 12 months but in any case it cannot exceed a period of 12 months. However, next and subsequent tax years shall always be a period of 12 months.

2. Where an assessee has an existing regular income from various sources and he earns an income from a new source during the financial year, his tax year shall commence -
- For the existing income: From 1<sup>st</sup> April of tax year; and
  - For new income: From the date when on which the new source of income comes into existence.
- However, assessee is liable to tax on aggregate income from all the sources, therefore, all the income will be included in the tax year.

### ***Exceptions***

This is the general rule that once tax year ends, return is required to be furnished, and assessment thereof takes place after the end of tax year. However, in order to ensure effective collection of income tax in cases where the taxpayer may not be traceable if the assessment is deferred to the subsequent tax year, the Assessing Officer may, in following cases, require the assessee to furnish the return of income and complete the assessment during the tax year itself:

1. Income of a non-resident assessee from shipping business (Sec. 316)
2. Income of a person who is leaving India either permanently or for a long period (Sec. 317)
3. Income of bodies, formed for a short duration (Sec. 318)
4. Income of a person who is likely to transfer property to avoid tax (Sec. 319)
5. Income of a discontinued business (Sec. 320). In this case, the Assessing Officer has the discretionary power i.e. he may assess the income in the same tax year or may wait till subsequent tax year.

### **Assessee [Sec 2(II)]**

“Assessee” means,

- a. a person by whom any tax or any other sum of money (i.e., penalty or interest) is payable under this Act (irrespective of the fact whether any proceeding under the Act has been taken against him or not);
- b. every person in respect of whom any proceeding under this Act has been taken (whether or not he is liable for any tax, interest or penalty) for the assessment of his income or loss sustained by him or refund due to him;
- c. every person in respect of whom any proceeding under this Act has been taken for the assessment of the income of any other person in respect of which he is assessable, or of the loss sustained by such other person or refund due to such other person;
- d. every person who is deemed to be an assessee under this Act; and
- e. a person who is deemed to be an ‘assessee in default’ under this Act. E.g. A person, who was liable to deduct tax but has failed to do so, shall be treated as an ‘assessee in default’.

### **Person [Sec. 2(77)]**

The term person *includes* the following:

- a. an Individual;
- b. a Hindu Undivided Family (HUF);
- c. a Company;
- d. a Firm;
- e. an Association of Persons (AOP) or a Body of Individuals (BOI), whether incorporated or not;
- f. a Local authority; &
- g. every artificial juridical person not falling within any of the preceding categories.

**Taxpoint:** Unless and until otherwise provided, a firm includes limited liability partnership.

### Heads of Income [Sec. 13]

According to sec. 13 of the Act, all income of a person shall be classified under the following five heads:

1. Salaries;
2. Income from house property;
3. Profits and gains of business or profession;
4. Capital gains;
5. Income from other sources.

For computation of income, all taxable income should fall under any of the five heads of income as mentioned above. If any type of income does not become part of any one of the above mentioned first four heads, it should be part of the fifth head, i.e. Income from other sources, which may be termed as the residual head.

### Gross Total Income (GTI) [Sec. 122(10)]

Gross total income is the aggregate of income under all the five heads of income after adjusting the set-off & carry forward of losses. Deductions under chapter VIII is provided from GTI, to arrive at Total income or taxable income.

#### Computation of Total Income for the Tax Year

Particulars	Amount
1. Salaries	***
2. Income from house property	***
3. Profits and gains of business or profession	***
4. Capital gains	***
5. Income from other sources	***
<b>Gross Total Income</b>	<b>*****</b>
Less: Deduction under chapter VII (i.e. from sec. 123 to 154)	*****
<b>Total Income</b>	<b>*****</b>

### Total Income (TI) [Sec. 2(108) read with section 122(1)]

Total income means the total amount of income referred to in sec. 5, computed in the manner laid down in this Act. In other words, it means gross total income as reduced by deductions admissible under chapter VIII.

Tax is required to be computed on total income after applying provision of rounding off as provided in sec. 516. For the purpose of computation of tax, total income may be divided into two parts viz. income on which special rate of tax is applicable and other income. Income which is subject to special rate of tax shall be taxed at special rate mentioned in the Act itself and tax on other income shall be computed considering regular rate of tax mentioned in the Finance Act.

Further, it is to be noted that tax is calculated on total income rather than aggregate of separate tax calculated on income falling under each head of income. That's why it is said that income tax is one tax and not collection of tax.

### Procedure for computation of tax liability (in case of an individual)

<b>1<sup>st</sup> Step</b>	Determination of Residential status	Determine the residential status of the assessee.	
<b>2<sup>nd</sup> Step</b>	Computation of income	Compute income under several heads of income giving the effect of clubbing of income.	
<b>3<sup>rd</sup> Step</b>	Aggregate the income i.e., Gross Total Income	Tax is levied on the total income of the assessee, hence income under several heads is to be aggregated giving the effect of set-off and carry forward of losses.	
<b>4<sup>th</sup> Step</b>	Deduction under chapter VIII	Provide deductions as per several provisions (Sec. 123 to 154) of chapter VIII from gross total income. The result is total income.	
<b>5<sup>th</sup> Step</b>	Total Income [Rounding off of income (u/s 516)]	Total Income is rounded off to the nearest multiple of ₹ 10 (ignoring paise).	
<b>6<sup>th</sup> Step</b>	Compute tax liability considering these points	Annual-tax	Income tax is charged annually.
		Rate of tax	Rate of tax as applicable in the relevant tax year.
		Rates fixed by the Finance Act	Rates of tax being fixed by the annual Finance Act are considered. However, few rates are specified in the Act itself.
<b>7<sup>th</sup> Step</b>	Rebate u/s 156	Resident <b>individual</b> whose income does not exceed specified limit, is eligible for rebate from tax. Reduce the amount of rebate from tax liability calculated in step 6	
<b>8<sup>th</sup> Step</b>	Surcharge	If total income of the assessee exceeds the specified	

		limit, surcharge on tax (as computed in step 6) shall be levied. Such surcharge is subject to marginal relief.
<b>9<sup>th</sup> Step</b>	Health and Education cess	To the amount so derived (in step 6 less step 7 add step 8), add Health and Education Cess [ <i>@</i> 4% on tax liability] and ascertain total tax liability (being tax, surcharge and cess).
<b>10<sup>th</sup> Step</b>	Rounding off of tax (u/s 516)	The amount so payable (after reducing relief, TDS, TCS and Advance Tax) shall be rounded off to the nearest multiple of ₹ 10 (ignoring paise).

## TAX RATES FOR THE TAX YEAR 2026-27

An Individual / HUF / AOP (other than co-operative society) / BOI / AJP are required to calculate his tax liability as per following tax regime:

- a. Default Tax Regime specified u/s 202(1)

*In this regime, the income of the assessee shall be taxable at concessional rate. However, he is required to sacrifice certain deductions and benefits.*

- b. Old Tax Regime or Regular Tax Regime by exercising the option available u/s 202(4)  
Subject to certain conditions and exceptions, the aforesaid taxpayer is free to choose either of the tax regime

### RATE OF TAX UNDER THE OLD TAX REGIME

**Applicable if the assessee has exercised the option given u/s 202(4)**

**Individual/HUF/Association of Persons/Body of Individuals/Artificial Juridical Person**

***In case of Super Senior citizen***

Total Income Range	Rates of Income Tax
Up to ₹ 5,00,000	Nil
₹ 5,00,001 to ₹ 10,00,000	20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,00,000 + 30% of (Total income – ₹ 10,00,000)

*Super Senior Citizen* means an individual who is resident in India and is of at least 80 years of age at any time during the relevant tax year (i.e. any resident person, male or female, born before 02-04-1947).

***In case of Senior citizen***

Total Income Range	Rates of Income Tax
Up to ₹ 3,00,000	Nil
₹ 3,00,001 to ₹ 5,00,000	5% of (Total Income – ₹ 3,00,000)
₹ 5,00,001 to ₹ 10,00,000	₹ 10,000 + 20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,10,000 + 30% of (Total income – ₹ 10,00,000)

*Senior Citizen* means an individual who is resident in India and is of at least 60 years of age at any time during the relevant tax year. (i.e., a resident person, male or female, born on or after 02-04-1947 but before 02-04-1967)

**In case of other Individual<sup>1</sup> / HUF / Association of Persons / Body of Individuals / Artificial Juridical Person**

Total Income Range	Rates of Income Tax
Up to ₹ 2,50,000	Nil
₹ 2,50,001 to ₹ 5,00,000	5% of (Total Income – ₹ 2,50,000)
₹ 5,00,001 to ₹ 10,00,000	₹ 12,500 + 20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,12,500 + 30% of (Total income – ₹ 10,00,000)

<sup>1</sup>. born on or after 02-04-1967 or non-resident individual

**Rebate u/s 156**

Applicable to: Resident Individual

Conditions to be satisfied: Total income of the assessee does not exceed ₹ 5,00,000.

Taxpoint: Rebate u/s 156 is not available on tax on capital gains covered u/s 198

Quantum of Rebate: **Lower** of the following:

- 100% of tax liability as computed above; or
- ₹ 12,500/-

**Example**

Compute rebate u/s 156 in the following cases:

Particulars	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Assessee	Individual	Individual	Senior Citizen	Senior Citizen	Individual	HUF
Residential status	Resident	Resident			Non-Resident	Resident
Total Income	₹ 4,90,000	₹ 5,12,000	₹ 4,25,000	₹ 5,40,000	₹ 2,60,000	₹ 2,65,000
Tax on above	₹ 12,000	₹ 14,900	₹ 6,250	₹ 18,000	₹ 500	₹ 750
<b>Rebate u/s 156</b>	<b>₹ 12,000</b>	<b>Nil</b>	<b>₹ 6,250</b>	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>
Reason		Total income exceeds ₹ 5 lacs		Total income exceeds ₹ 5 lacs	Assessee is non-resident	Assessee is not an individual
Tax after rebate	Nil	₹ 14,900	Nil	₹ 18,000	₹ 500	₹ 750

**Surcharge on tax**

Surcharge at the following rate is also payable on tax as computed above

Total Income	Rate of Surcharge
Total income does not exceed ₹ 50 lacs	Nil
Total income exceeds ₹ 50 lacs but does not exceed ₹ 1 crore	10% of tax
Total income exceeds ₹ 1 crore but does not exceed ₹ 2 crores	15% of tax
Total income exceeds ₹ 2 crores but does not exceed ₹ 5 crores	25% of tax*
Total income exceeds ₹ 5 crores	37% of tax*

\* Where the total income includes dividend, any capital gains chargeable u/s 196, 197 and 198, the surcharge on the amount of income-tax computed on that part of income shall not

exceed 15%. In other words, surcharge higher than 15% is applicable only on tax on income other than dividend, capital gains covered u/s 196, 197 and 198. Moreover, in case of an AOP consisting of only companies as its members, the rate of surcharge on the amount of Income-tax shall not exceed 15%.

### Health & Education Cess

Applicable on: All assessee

Rate of cess: 4% of Tax liability after Surcharge

### Marginal Relief

Example: Compute tax liability of the assessee (52 years) whose total income is:

(Case 1) ₹ 49,90,000 (Case 2) ₹ 50,10,000; (Case 3) ₹ 60,00,000; (Case 4) ₹ 1,01,00,000

Particulars	Working	Case 1	Case 2	Case 3	Case 4
Tax liability before Rebate	₹ 2,50,000 * Nil	Nil	Nil	Nil	Nil
	₹ 2,50,000 * 5%	12,500	12,500	12,500	12,500
	₹ 5,00,000 * 20%	1,00,000	1,00,000	1,00,000	1,00,000
	Balance Income * 30%	11,97,000	12,03,000	15,00,000	27,30,000
Total		13,09,500	13,15,500	16,12,500	28,42,500
Less: Rebate u/s 156	As income exceeds ₹ 5,00,000	Nil	Nil	Nil	Nil
Liability [A]		13,09,500	13,15,500	16,12,500	28,42,500
Add: Surcharge	<b>B = [10% or 15% of (A)]</b>	Nil	1,31,550	1,61,250	4,26,375
<b>Tax and surcharge payable</b>		13,09,500	14,47,050	17,73,750	32,68,875

Analysis of case (1) and case (2)

Increase in income	₹ 20,000
Liability for surcharge increased	₹ 1,31,550

To provide relaxation from levy of surcharge to a taxpayer where the total income exceeds marginally above ₹ 50 lakh, the concept of marginal relief is designed.

Condition: Total income exceeds ₹ 50,00,000 (or ₹ 1 crore or 2 crores or 5 crores)

Relief: Marginal relief is provided to ensure that the additional income tax payable including surcharge on excess of income over ₹ 50,00,000 (or ₹ 1 crore / ₹ 2 crore / ₹ 3 crore) is limited to the amount by which the income is more than ₹ 50,00,000 (or ₹ 1 crore / ₹ 2 crore / ₹ 3 crore)

Marginal relief = Calculated Surcharge - 70% (Income – ₹ 50,00,000) (if positive)

Similar relief shall also be provided where income exceeds marginally above ₹ 1 crore or ₹ 2 crores or ₹ 5 crores. In that case, the aforesaid equation shall be changed accordingly.

Now, computation of tax liability is made after considering marginal relief:

Particulars	Working	Case 1	Case 2	Case 3	Case 4
Liability [A]		13,09,500	13,15,500	16,12,500	28,42,500
Add: Surcharge	<b>B = [10% of (A)]</b>	Nil	1,31,550	1,61,250	4,26,375
Tax and	<b>C</b>	13,09,500	14,47,050	17,73,750	32,68,875

surcharge					
Less: Marginal relief	[(C)-{₹ 13,12,500 + ₹ 10,000}]	Nil	1,24,550	Nil	
	[(C)-{₹ 30,93,750 + ₹ 1,00,000}]				75,125
Effective Surcharge [D]		Nil	7,000	1,61,250	3,51,250
<b>Liability after surcharge</b>	<b>[A + D]</b>	13,09,500	13,22,500	17,73,750	31,93,750
Add: Health & Education cess	4% of above	52,380	52,900	70,950	1,27,750
<b>Total</b>	<b>Rounded off u/s 516</b>	<b>13,61,880</b>	<b>13,75,400</b>	<b>18,44,700</b>	<b>33,21,500</b>

**Taxpoint:** In case of old regime, the concept of marginal relief is not applicable in case of rebate u/s 156 and cess.

### Default Tax Regime for Individual / HUF / AOP / BOI / AJP [Sec. 202(1)]

#### Applicable to

Individual / HUF / AOP (other than co-operative society) / BOI / AJP

#### Rate of Tax

Under this tax regime, income tax shall be computed at the option of the assessee considering the following rate:

Total income	Rate of tax
Upto ₹ 4,00,000	Nil
From ₹ 4,00,001 to ₹ 8,00,000	5%
From ₹ 8,00,001 to ₹ 12,00,000	10%
From ₹ 12,00,001 to ₹ 16,00,000	15%
From ₹ 16,00,001 to ₹ 20,00,000	20%
From ₹ 20,00,001 to ₹ 24,00,000	25%
Above ₹ 24,00,000	30%

#### Taxpoint

- ₹ 4,00,000 shall be considered as basic exemption limit irrespective of his age. In other words, for all category of individual i.e. senior citizen, super senior citizen and others, basic exemption limit is ₹ 4,00,000
- If any income is taxable at special rate, such income shall be taxable at that special rate of tax.
- Where an assessee is computing his tax liability under this regime, then certain deductions or exemptions or benefits shall not be available to him.

#### Rebate u/s 156 for tax computed as per sec. 202(1)

Applicable to: Resident Individual

Conditions to be satisfied: The total income of the assessee does not exceed ₹ 12,00,000.

**Taxpoint:** Rebate u/s 156 is not available on tax on income chargeable at special rates under any provisions [e.g. rebate u/s 156 is not available on tax on capital gains covered u/s 196 / 197 / 198, tax on winning from lottery, etc.]

**Quantum of Rebate: Lower** of the following:

- a. 100% of tax liability as computed above; or
- b. ₹ 60,000/-

Marginal relief is available even if total income exceeds ₹ 12,00,000 [available upto ₹ 12,70,587]

Marginal relief = Positive value of (Tax on income – Income in excess of ₹ 12,00,000)

**Example**

Particulars	Case 1	Case 2	Case 3	Case 4
Assessee	Individual	Individual	Senior Citizen	Individual
Residential status	Resident	Resident		Resident
Regime	Default	Default	Default	Default
Total Income (₹)	10,00,000	11,80,000	12,50,000	12,75,000
Tax on above	40,000	58,000	67,500	71,250
<b>Rebate u/s 156</b>	<b>40,000</b>	<b>58,000</b>	<b>17,500</b>	<b>Nil</b>
Reason			[₹ 67,500 – (₹ 12,50,000 - ₹ 12,00,000)], is positive	[₹ 71,250 – (₹ 12,75,000 - ₹ 12,00,000)], is negative
Tax after rebate	Nil	Nil	50,000	71,250

**Surcharge on tax**

Surcharge, subject to marginal relief, at the following rate is also payable on tax as computed above

Total Income	Rate of Surcharge
Total income does not exceed ₹ 50 lacs	Nil
Total income exceeds ₹ 50 lacs but does not exceed ₹ 1 crore	10% of tax
Total income exceeds ₹ 1 crore but does not exceed ₹ 2 crores	15% of tax
Total income exceeds ₹ 2 crores	25% of tax*

Marginal Relief as discussed in the old regime is also available.

\* Where the total income includes dividend, any capital gains chargeable u/s 196, 197 and 198, the surcharge on the amount of income-tax computed on that part of income shall not exceed 15%. In other words, surcharge higher than 15% is applicable only on tax on income other than dividend, capital gains chargeable u/s 196, 197 and 198. Moreover, in case of an AOP consisting of only companies as its members, the rate of surcharge on the amount of Income-tax shall not exceed 15%.

**Health & Education Cess**

Applicable on: All assessee

Rate of cess: 4% of Tax liability after Surcharge

Alternate Minimum Tax:

18.5% of adjusted total income + Surcharge after marginal relief, if any + Health & Education Cess @ 4%

**Firm or Limited Liability Partnership (LLP)**

A partnership firm (including limited liability partnership) is taxable at the rate of 30%

Surcharge: 12% of income-tax (if total income exceeds ₹ 1 crore otherwise Nil)

Marginal Relief: Available

Health & Education Cess: 4% of tax liability after surcharge

Alternate Minimum Tax:

18.5% of adjusted total income + Surcharge after marginal relief, if any + Health & Education Cess @ 4%

**Co-operative Society**

Tax rate is as follow:

Income	Rate of tax
Upto ₹ 10,000	10%
From ₹ 10,001 to ₹ 20,000	20%
Above ₹ 20,00	30%

Surcharge: 7% of tax (if total income > ₹ 1 crore but does not exceed ₹ 10 crore) / 10% of tax (if total income > ₹ 10 crore), subject to marginal relief

Health & Education Cess: 4% of tax & surcharge

In few cases and subject to certain conditions, co-operative society are liable to be taxed at different rate.

Alternate Minimum Tax:

15% of adjusted total income + Surcharge after marginal relief, if any + Health & Education Cess @ 4%

**Local authority**

Local authority is taxable at the rate of 30%

Surcharge: 12% of income-tax (if total income exceeds ₹ 1 crore otherwise Nil)

Marginal Relief: Available

Health & Education Cess: 4% of tax liability after surcharge

Alternate Minimum Tax:

18.5% of adjusted total income + Surcharge after marginal relief, if any + Health & Education Cess @ 4%

**Company**

Company	Rate
In the case of a domestic company	
- Where its total turnover or gross receipts during the tax year 2024-25 does not exceed ₹ 400 crore	25%
- In any other case	30%
In the case of a foreign company	35%

**Surcharge**

Total Income	Domestic Company	Foreign Company
If total income exceeds ₹ 10 crore	12%	5%
If income exceeds ₹ 1 crore but does not exceed ₹ 10 crore	7%	2%
If income does not exceed ₹ 1 crore	Nil	Nil

Marginal Relief: Available at both points (i.e., income exceeds ₹ 1,00,00,000 or ₹ 10,00,00,000)

Health & Education Cess: 4% of tax liability after surcharge

In few cases and subject to certain conditions, companies are liable to be taxed at different rate.

Minimum Alternate Tax (MAT)

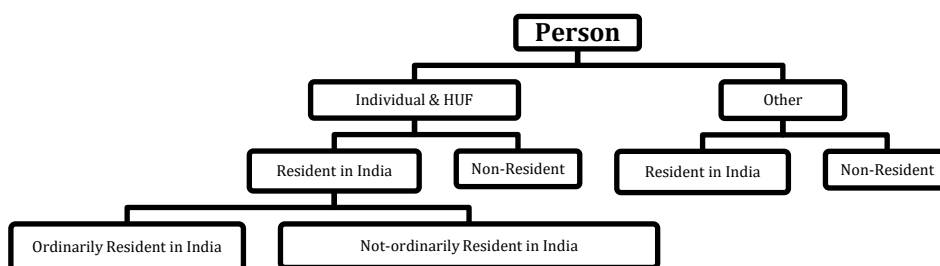
14% of book profit + Surcharge after marginal relief, if any + Health and Education Cess @ 4%



# RESIDENTIAL STATUS

The taxability of a person depends upon his residential status in India for any particular tax year. The term residential status must not be confused with an individual's citizenship in India. An individual may be a citizen of India but may not be a resident for a particular tax year. Similarly, a foreign citizen may be a resident of India for the purpose of income tax for a particular tax year. Residential status of an assessee determines the scope of chargeability of his income. Whether a person will be charged for a particular income or not, depends on his residential status.

*Sec. 6 provides the test for determination of residential status for the person which can be categorized as under:*



## General points to be kept in mind regarding residential status of a person

<b>Different for each tax year</b>	Residential status is determined in respect of each tax year. In other words, residential status of a person may vary from one tax year to another tax year.
<b>Single Status for each source of income</b>	A person can have only one residential status for a tax year i.e. he cannot be a resident for one source of income and non-resident for another source.
<b>Impact of citizenship</b>	Citizenship and residential status are two different concepts. A citizen of India may not be a resident in India for the purpose of income-tax.
<b>Country Specific</b>	A person can have same residential status in more than one country.

## Determination of Residential Status

### Individual [Sec. 6(2)]

#### Resident in India

An individual is said to be a resident in India, if he satisfies *any one* of the following conditions -

- i) He is in India in the tax year for a period of *182 days or more* [Sec. 6(2)(a)]; **or**
- ii) He is in India for a period of 60 days or more during the tax year and for 365 or more days during 4 tax years immediately preceding the relevant tax year [Sec. 6(2)(b)]

**Taxpoint:**

- *Given Conditions are alternative in nature i.e. assessee needs to satisfy any one condition.*
- *For the purpose of counting the number of days stayed in India, both the date of departure as well as the date of arrival are considered to be in India.*

**Non-Resident in India**

An assessee who is not satisfying any of the condition given u/s 6(2) shall be treated as a non-resident in India for the relevant tax year.

**Exceptions to the above rule**

A. In the following cases, *condition (b) of sec. 6(2)* is irrelevant:

1. An Indian citizen, who leaves India during the tax year for the purpose of employment outside India<sup>†</sup>.
2. An Indian citizen, who leaves India during the tax year as a member of the crew of an Indian ship.

*Taxpoint: The above assessee shall be treated as a resident in India only if he resides in India for 182 days or more in the relevant tax year.*

B. In case of an Indian citizen or a person of Indian origin<sup>#</sup> comes on a visit to India during the tax year, modified *condition (b) of sec. 6(2)* is applicable:

Case	Modified condition (b) of sec. 6(2)
His total income, other than the income from foreign sources <sup>!</sup> , <b>exceeds ₹ 15 lakhs</b> during the tax year	He is in India for a period of <b>120 days</b> or more (but less than 182 days) during the tax year and for 365 or more days during 4 tax years immediately preceding the relevant tax year
His total income, other than the income from foreign sources, <b>does not exceed ₹ 15 lakhs</b> during the tax year	Sec. 6(1)(b) is not applicable

<sup>#</sup> *Person of Indian origin:* A person is deemed to be of Indian origin if he or either of his parents or grandparents were born in undivided India. Here, grandparents may be paternal or maternal.

<sup>!</sup> *"Income from foreign sources"* means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

<sup>†</sup> The employment may be in India or may be outside India

**C. Deemed Resident:** An individual shall be deemed to be resident in India, if the following conditions are satisfied

- a. He is a citizen of India
- b. His total income, other than the income from foreign sources, exceeds ₹ 15 lakhs during the tax year;
- c. He is not satisfying any of the basic conditions given u/s 6(2) [i.e., 182 days or 60 days + 365 days]; and
- d. He is not liable to tax in any other country or territory due to his domicile or residence or similar criteria. [Sec. 6(7)]

**Taxpoint:**

- *However, if such individual has satisfied either of the basic conditions, then he shall be treated as resident in India u/s 6(2).*
- *Further note that the exception is not applicable in the case of a foreign citizen even if he is a person of Indian origin.*
- *If these conditions are satisfied, then such individual shall be deemed as resident irrespective of number of days of his stay in India.*
- *Liable to tax in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country;*

**Rule 8**

In the case of an individual, being a citizen of India and a member of the crew of a ship, the period of stay in India shall, in respect of an eligible voyage, not include the following period:

Period beginning	Period ending
Period beginning on the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage	Period ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage

**Explanation**

“Eligible voyage” shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where-

- a. for the voyage having originated from any port in India, has as its destination any port outside India; &
- b. for the voyage having originated from any port outside India, has as its destination any port in India.’

**Example:**

In the Continuous Discharge Certificate the date of joining is recorded as 1st January 2027 and the date of ending the voyage is recorded as 31st January 2027, then the entire period

of 31 days shall be excluded from his stay in India

### **Points to be kept in mind**

- a) Stay at same place in India is not necessary.
- b) Continuous stay in India is not necessary.
- c) A person shall be deemed to reside in India, if he is on the territorial waters of India<sup>‡</sup>.

### **Additional conditions to test whether resident individual is 'Ordinarily resident or not' [Sec. 6(13)]**

A resident individual in India can further be categorised as -

- i) Resident and ordinarily resident in India
- ii) Resident but not ordinarily resident in India

### **Resident and ordinarily resident**

If a resident individual satisfies the following two additional conditions, he will be treated as resident & ordinarily resident in India -

- a) He has been resident in India [as per sec. 6(2)] in *at least 2 out of 10* tax years immediately preceding the relevant tax year; **and**
- b) He has resided in India for a period of 730 days or more during 7 tax years immediately preceding the relevant tax year.

*Taxpoint: To be a Resident & Ordinarily resident in India, one has to satisfy at least one condition of sec. 6(2) & both the additional conditions of sec. 6(13).*

### **Resident but not ordinarily resident**

If a resident individual does not satisfy **both** additional conditions as given u/s 6(13), he is "Resident but not ordinarily resident in India".

### **Exceptions**

- A. An individual shall be **deemed to be resident but not ordinarily resident** in India, if following conditions are satisfied:
  - a. He is a citizen of India
  - b. His total income, other than the income from foreign sources, exceeds ₹ 15 lakhs during the tax year; and
  - c. He is not liable to tax in any other country or territory due to his domicile or residence or similar criteria.
  - d. He is deemed to be resident in India u/s 6(7).

<sup>‡</sup> Territorial water extends to 12 nautical miles (1 nautical miles = 1.1515 miles = 1.853 km) into the sea from the base line on the coast of India and include any bay, gulf, harbour, creek or tidal river

**B.** An individual shall be **deemed to be resident but not ordinarily resident** in India, if following conditions are satisfied:

- a. He is an Indian citizen or a person of Indian origin.
- b. He comes on a visit to India during the tax year
- c. His total income, other than the income from foreign sources, **exceeds ₹ 15 lakhs** during the tax year
- d. He is in India for a period of **120 days** or more (but less than 182 days) during the tax year and for 365 or more days during 4 tax years immediately preceding the relevant tax year

***Taxpoint:** If aforesaid conditions are satisfied, then such individual shall be deemed to be resident but not ordinarily resident even though he has satisfied both conditions specified u/s 6(13).*

### **Illustration 1**

Miss Monica, a foreign national, comes India every year for 90 days since 2009-10.

- a) Determine her residential status for the tax year 2026-27.
- b) Will your opinion differ, if she comes India for 100 days instead of 90 days every year.

### **Solution**

- a) Since Miss Monica stayed for 90 days during the tax year 2026-27 and for 360 days (90 days x 4 years) during the 4 years immediately preceding the tax year, hence, she is not satisfied with any of the conditions of sec. 6(2). Thus, she is a non-resident for the tax year 2026-27.
- b) Since Miss Monica stayed for 100 days during the tax year 2026-27 and for 400 days (100 days X 4 years) during the 4 years immediately preceding the tax year, hence, she is satisfying sec. 6(2)(b). Thus, she is resident for the tax year 2026-27. Further, she resided for only 700 days (100 days x 7 years) during the 7 years immediately preceding the tax year. Hence, she does not satisfy one of the conditions of sec. 6(13). Thus, she is resident but not ordinarily resident for the tax year 2026-27.

## **Hindu Undivided Family (HUF) [Sec. 6(9)]**

An HUF can be either a resident or non-resident in India. Again, a resident HUF can further be classified as ‘Ordinarily resident’ and ‘Not ordinarily resident’.

**Resident HUF:** When the control & management<sup>1</sup> of affairs of HUF is *wholly or partly* situated in India during the relevant tax year, then it is treated as resident in India.

<sup>1</sup> *Control & management* means -

- controlling & directive power;
- actual control & management (mere right to control & manage is not enough);
- central control & management and not the carrying out of day to day affairs.

The place of central control & management is situated where the head, the seat & the directing power are situated.

**Non-resident HUF:** An HUF is non-resident in India if the control & management<sup>1</sup> of its affairs is *wholly* situated outside India.

**Ordinarily resident in India:** If the ‘karta’ or manager of a resident HUF satisfies both additional conditions given u/s 6(13), HUF is said to be an ordinarily resident. If the ‘karta’ or manager of a resident HUF do not satisfy both additional conditions given u/s 6(13), HUF is said to be a not-ordinarily resident.

*Taxpoint:* Residential status of the karta for the tax year is not important but his status for preceding 10 years is important.

## Company [Sec. 6(10)]

**Resident Company:** An Indian company is always a resident in India.

A non-Indian company is said to be a resident in India, if its place of effective management, in that year, is in India.

“Place of effective management” means a place where key management and commercial decisions necessary for the conduct of the business of the company as a whole are, in substance, made.’

**Non-Resident Company:** If place of effective management, in that year, is not in India, the said company is non-resident in India for the relevant tax year.

*Taxpoint:*

*In case of company, there is no sub-division like ‘Ordinarily resident’ or ‘Not ordinarily resident’.*

*It has been clarified that the POEM provisions shall not apply to a company having turnover or gross receipts of ₹ 50 crore or less in a financial year - Circular No. 08 of 2017 dated 23-02-2017. i.e, a foreign company whose annual turnover / gross receipts is ₹ 50 crores or less cannot be resident in India*

### **Place of effective management (POEM)**

“Place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole, are in substance made.’ Circular 6/2017 dated 24-01-2017 provides that the process of determination of POEM would be primarily based on the fact as to whether or not the company is engaged in active business outside India (ABOI).

Particulars	POEM
<b><i>Company is engaged in active business outside India</i></b>	
- If the majority meetings of the board of directors of the company are held outside India	Outside India
- If Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person (s) resident in India	In India
<b><i>Company is not engaged in active business outside India then the following are required</i></b>	

to be ascertained:

1. The person(s) who actually make the key management and commercial decision for the conduct of the company's business as a whole
2. Place where these decisions are in fact being made<sup>§</sup>

<b>If such place is in India</b>	<b>In India</b>
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**Taxpoint**

- ✿ A company shall be said to be engaged in “active business outside India” if:
  - a) the passive income is not more than 50% of its total income; and
  - b) less than 50% of its total assets are situated in India; and
  - c) less than 50% of total number of employees are situated in India or are resident in India; and
  - d) the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.
- ✿ *Passive income* of a company shall be aggregate of:
  - i. income from the transactions where both the purchase and sale of goods is from / to its associated enterprises; and
  - ii. income by way of royalty, dividend, capital gains, interest (except for banking company or public financial institution) or rental income.

**Firm or an Association of Persons (AOP) or Body of Individuals (BOI) [Sec. 6(11)]**

**Resident:** A firm or an AOP or BOI is said to be a resident in India, if control & management of its affairs are *wholly or partly* situated in India during the relevant tax year.

Control & management is vested in hands of partners in case of firm and principal officer in case of an AOP/BOI.

**Non-resident:** If control & management of its affairs are situated *wholly* outside India, then it is a non-resident in India.

**Taxpoint:** *In case of firm or BOI or AOP, there is no subdivision like ‘Ordinarily resident’ or ‘Not ordinarily resident’.*

**Incidence of Tax [Sec. 5]**

The following chart highlights the provisions of tax incidence in brief:

<b>Nature of Income</b>	<b><i>Tax incidence in the case of</i></b>		
	<b>Resident &amp; ordinarily resident</b>	<b>Resident but not ordinarily resident</b>	<b>Non resident</b>

<sup>§</sup> The place where management decisions are taken would be more important than the place where such decisions are implemented.

Income accrued or deemed to be accrued and received or deemed to be received in India	Taxable	Taxable	Taxable
Income accrued outside India but received or deemed to be received in India.	Taxable	Taxable	Taxable
Income accrued or deemed to be accrued in India but received outside India	Taxable	Taxable	Taxable
Income accrued and received outside India from a business controlled in or profession set-up in India.	Taxable	Taxable	Not taxable
Income accrued and received outside India from a business controlled or profession set-up outside India.	Taxable	Not taxable	Not taxable
Income accrued and received outside India in the tax year (it makes no difference if the same is later remitted to India).	Taxable	Not taxable	Not taxable
Income accrued and received outside India in any year preceding the tax year and later on remitted to India in current financial year.	Not taxable	Not taxable	Not taxable
<b>Note:</b> In case of resident assessee like company, firm etc. (other than Individual and HUF) in which there is no classification as 'Resident but not ordinarily resident', income accrued and received outside India from a business controlled or profession setup outside India shall be taxable.			

#### Taxpoint

- Income accruing or arising outside India shall not be deemed to be received in India within the meaning of sec. 5 by reason only of the fact that it is taken into account in a balance sheet prepared in India.
- Income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India.

#### Illustration 2

Ram provides the following details of income, calculate the income which is liable to be taxed in India for the tax year 2026-27 assuming that he is –

- a) an ordinarily resident      b) not an ordinarily resident      c) a non-resident.

Particulars	Amount
Salary received in India from a former employer of UK	1,40,000
Income from tea business in Nepal being controlled from India	10,000
Interest on company deposit in Canada (1/3 <sup>rd</sup> received in India)	30,000
Profit from a business in Mumbai controlled from UK	1,00,000
Profit for the year 2024-25 from a business in Tokyo remitted to India	2,00,000
Income from a property in India but received in USA	45,000
Income from a property in London but received in Delhi	1,50,000
Income from a property in London but received in Canada	2,50,000

Income from a business in Jambia but controlled from Turkey	10,000
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**Solution**

Calculation of income liable to be taxed in India of Ram for the tax year 2026-27

Particulars	Resident & Ordinarily resident	Resident but not ordinarily resident	Non-resident
Salary received in India from a former employer of UK	1,40,000	1,40,000	1,40,000
Income from tea business in Nepal being controlled from India	10,000	10,000	Nil
<u>Interest on company deposit in Canada -</u>			
- 1/3 <sup>rd</sup> received in India	10,000	10,000	10,000
- 2/3 <sup>rd</sup> received outside India	20,000	Nil	Nil
Profit from a business in Mumbai controlled from UK	1,00,000	1,00,000	1,00,000
Past Profit from a business in Tokyo remitted to India	Nil	Nil	Nil
Income from a property in India but received in USA	45,000	45,000	45,000
Income from a property in London but received in Delhi	1,50,000	1,50,000	1,50,000
Income from a property in London but received in Canada	2,50,000	Nil	Nil
Income from a business in Jambia but controlled from Turkey	10,000	Nil	Nil
<b>Income liable to tax in India</b>	<b>7,35,000</b>	<b>4,55,000</b>	<b>4,45,000</b>

**Income received in India**

Income received in India is taxable in all cases (whether accrued in India or elsewhere) irrespective of residential status of the assessee, therefore it is significant to know the meaning of income received in India. If the place, where the recipient gets the money (*on first occasion*) under his control, is in India, it is said to be income received in India.

**Taxpoint:** Receipt is different from remittance. The receipt of income refers to the first occasion when the recipient gets the money under his control. Once the amount is received as income (at any place outside India), any subsequent remittance or transmission of the amount to India does not result to receipt in India

**Example:** Mr. X, a non-resident, received dividend from an Italian company in Japan on 15/12/2026. On 17/12/2026, he remitted such income in India. Such income shall not be taxable in India as income has neither received in India nor accrued in India.

**Taxpoint:** Salary accrued to a non-resident seafarer for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) shall not be included in the total income merely because the said salary has been credited in the NRE account maintained with an Indian bank by the seafarer.

**Income deemed to be received in India [Sec. 7]**

Following incomes shall be deemed to be received in India and taxable in hands of all assessee irrespective of their residential status -

- a) The annual accretion in the tax year to the balance at the credit of an employee participating in a recognized provident fund, to the extent provided in Para 6 of part A of the Schedule XI
- b) The transferred balance in recognised provident fund, to the extent provided in para 11(4) & (5) of Part A of Schedule XI
- c) The contribution made, by the employer in the tax year, to the account of an employee under a pension scheme notified u/s 124
- d) Tax Deducted at source [Sec. 396], subject to certain exception

### **Income deemed to accrue or arise in India [Sec. 9]**

Following incomes are deemed to accrue or arise in India:

Income from connection in India	Salary earned in India	Salary from Govt. by an Indian citizen for services rendered outside India	Income from dividend paid by an Indian company	Income from interest payable by specified person	Income from royalty	Income from technical services	Receipt of gift by non-resident or a RNOR or a foreign company
Sec. 9(2)	Sec. 9(3)(a)	Sec. 9(3)(b)	Sec. 9(4)	Sec. 9(5)	Sec. 9(6)	Sec. 9(7)	Sec. 9(8)

#### **Income from connection in India [Sec. 9(2)]**

All income accruing or arising, whether directly or indirectly, through or from:

- a) any business connection in India; or
- b) any property / asset or source of income in India; or
- c) the transfer of a capital asset situated in India.

#### **Income from business connection in India**

Income, which arises outside India because of business connection (or Professional connection) in India is deemed to accrue or arise in India (subject to certain exceptions) and shall be taxable in hands of all assessee irrespective of his residential status.

#### **Income from any property/assets or source of income in India**

Following income shall be deemed to accrue or arise in India -

- Income from any assets or property in India whether tangible / intangible, movable / immovable; or
- Income from a source situated in India



**Income on transfer of a capital asset situated in India**

Any gain on transfer of a capital asset situated in India, shall be deemed to accrue or arise in India.

**Taxpoint:**

- *The provision is applicable irrespective of the fact whether:*
  - *The capital asset is movable or immovable, tangible or intangible;*
  - *The place of registration of the document of transfer, etc. is in India or outside; and*
  - *The place of payment of the consideration for the transfer is within India or outside*

**Salaries earned in India [Sec. 9(3)(a)]**

Salary earned in India, and any income payable for –

- a) Services rendered in India; and
- b) The rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment, - shall be deemed to accrue or arise in India.

**Salary payable by the Government to Indian citizens for services rendered outside India [Sec. 9(3)(b)]**

Any salary -

- payable by the Government of India;
  - to a citizen of India (Resident or non-resident);
  - for services rendered outside India;
- shall be deemed to accrue or arise in India.

**Note:** In this regard it is to be noted that any allowances or perquisites paid by the Government to a citizen of India for services rendered outside India shall be exempted Sch III (Table S. No. 9). The exemption is available in both regime.

**Income from dividend [Sec. 9(4)]**

Any dividend paid by an Indian company outside India is deemed to accrue or arise in India.

**Income from Interest [Sec. 9(5)]**

Following interest shall be deemed to accrue or arise in India –

<b>Interest payable by</b>	<b>Condition</b>
The Government	Nil
A resident person	Money borrowed is not used for the purpose of -

	<ul style="list-style-type: none"> <li>• business or profession carried on by such person outside India; or</li> <li>• earning any income from any source outside India.</li> </ul>
A non-resident person	Money borrowed is used for the purpose of business or profession carried on by such person in India. <i>Taxpoint: In case money borrowed and used for the purpose of earning an income from any other source in India, interest shall not be treated as deemed to accrue or arise in India.</i>

### **Income from royalty [Sec. 9(6)]**

Following royalty shall be deemed to accrue or arise in India –

<b>Royalty payable by</b>	<b>Condition</b>
The Government	Nil
A resident person	The right, property, information or services are not utilized for the purpose of - <ul style="list-style-type: none"> <li>• business or profession carried on by such person outside India; or</li> <li>• earning any income from any source outside India.</li> </ul>
A non-resident person	The right, property, information or services must be utilised for the purpose of - <ul style="list-style-type: none"> <li>• business or profession carried on by such person in India; or</li> <li>• earning any income from any source in India.</li> </ul>

### **Income from technical services [Sec. 9(7)]**

Following income by way of fees for technical service shall be deemed to accrue or arise in India –

<b>Fee for technical services payable by</b>	<b>Condition</b>
The Government	Nil
A resident person	Such services must not be utilised in - <ul style="list-style-type: none"> <li>• business or profession carried on by such person outside India; or</li> <li>• earning any income from any source outside India</li> </ul>
A non-resident person	Such services must be utilized in - <ul style="list-style-type: none"> <li>• business or profession carried on by such person in India; or</li> <li>• earning any income from any source in India.</li> </ul>

### **Deemed Receipts of Gift [Sec. 9(8)]**

When

- a non-resident or a not ordinarily resident or a foreign company receives any sum of money referred to in sec. 92(2)(m)\*\*
- such receipt is from a resident person
- such money is received outside India

then

- such receipt is treated as income deemed to accrue or arise in India ††.

### **Section Mapping**

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Residential Status of		
- Individual	6(1) & 6(6)	6(2) & 6(13)
- HUF	6(2) & 6(6)	6(9) & 6(13)
- Company	6(3)	6(10)
- Other Person	6(4)	6(11)
Scope of total income	5	5
Income deemed to be received in India	7	7
Income deemed to accrue or arise in India	9	9

\*\* Refer chapter “Income from Other Sources”.

†† Subject to DTAA and exceptions provided in sec. 92(2)(m)



## INCOME EXEMPT FROM TAX

Sec. 11 and 12 provides that in computing the total income for a tax year, income enumerated in following schedules shall not be included, subject to fulfilment of conditions specified therein

Schedule	Description
<b>II</b>	Income not to be included in total income
<b>III</b>	Income not to be included in total income of eligible persons
<b>IV</b>	Income not to be included in total income of eligible non-residents, foreign companies and other such persons
<b>V</b>	Income not to be included in total income of certain eligible persons including investment funds, business trusts and their unit holders
<b>VI</b>	Income not to be included in total income of certain eligible persons in international financial services centre or having income therefrom
<b>VII</b>	Persons exempt from tax
<b>VIII</b>	Income not to be included in the total income of political parties and electoral trusts

### Schedule II: Income not to be included in total income

Following income shall not be included in the total income of a person for a tax year, subject to certain conditions:

S.N	Income not to be included in total income
1.	Agricultural income
2.	Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy if yearly premium does not exceed certain limit
3.	Any payment from statutory provident fund or from any other notified provident fund set up by the Central Government subject to certain limit of yearly contribution
4.	The accumulated balance due and becoming payable to an employee participating in a recognised provident fund subject to certain limit of yearly contribution
5.	Any payment from any account opened as per the Sukanya Samriddhi Account Scheme, 2019
6.	Any payment from the National Pension System Trust on closure of account or opting out of the scheme <i>Taxpoint:</i> Exemption does not exceed 60% of total amount payable to him at the time of closure
7.	Any payment from the Agniveer Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee
8.	Any payment from an approved superannuation fund in certain circumstances like death of the beneficiary, commutation at retirement, etc.
9.	Scholarships
10.	Award or reward by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf
11.	Income by way of interest, premium on redemption or other payment on notified securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits

12.	Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015
13.	Interest on specified bonds issued by a local authority or by a State Pooled Finance Entity.
14.	Any income arising from the transfer of unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.
15.	Any payment from the National Pension System Trust received by an assessee, who is a subscriber to the Unified Pension Scheme subject to certain limit and condition
16.	Any sum received as "lump sum amount" from the National Pension System Trust by an assessee being a subscriber to the Unified Pension Scheme.
17.	Any income covered u/s 10(15)(iii) or (15)(iv)(c), (15)(iv)(d), (15)(iv)(e), (15)(iv)(f), (15)(iv)(g) or (15)(iv)(h) or (36) of the Income-tax Act, 1961, subject to the conditions as provided therein.

### Schedule III: Income not to be included in total income of eligible persons

Following income, subject to certain conditions, shall not be included in the total income of a tax year of any eligible person:

S.N	Income not to be included in total income	Eligible persons
1.	Any sum received by a member from Hindu undivided family.	An individual who is a member of a Hindu undivided family.
2.	Any sum received by a partner towards his share in the total income of the firm.	A person who is a partner of a firm separately assessed as such.
3.	Any amount received or receivable from the Central Government or a State Government or a local authority by way of compensation on account of any disaster.	Any individual or his legal heir.
4.	Partial withdrawal to the extent of 25% of the contribution made by employee from the National Pension System Trust	a. Any employee; or b. an assessee, being the guardian or parent of a minor.
5.	Daily allowance received	Member of Parliament or State Legislature or of any Committee thereof (under old tax regime)
6.	Any allowance received under the Salary, Allowances and Pension of Members of Parliament Act	Member of Parliament (under old tax regime)
7.	Any constituency allowance received	Member of any State Legislature (under old tax regime)
8.	Leave travel concession or assistance, subject to certain restrictions and conditions discussed in Salary	Any individual (under old tax regime)
9.	Any allowances / perquisites to Government employee working outside India	A citizen of India
10.	Tax on non-monetary perquisite paid by employer	An employee
11.	House rent allowance, subject to certain restrictions and conditions discussed in Salary	Any assessee under old tax regime

12.	Notified Special allowance or benefit to the extent expenses are actually incurred for office purpose	Any assessee (few are exempted only in case if the assessee is under old tax regime)
13.	Notified allowance to meet his personal expenses at the place of posting or to compensate for the increased cost of living	Any assessee (few are exempted only in case if the assessee is under old tax regime)
14.	Pension received	An individual who has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award
15.	Family pension received	Any member of the family of an individual referred against serial number 14.
16.	Family pension received.	Widow or children or nominated heirs of a member of the armed forces (including paramilitary forces) of the Union.
17.	Income of minor child (upto ₹ 1,500 per child) clubbed in the total income u/s 99(1)(c).	An individual (under old tax regime)
18.	Capital gains on compulsory acquisition of urban agricultural land, subject to certain conditions	An individual or a Hindu undivided family.
19.	Any income which accrues or arises- (a) from any source in the specified areas or States; or (b) by way of dividend or interest on securities.	A member of a Scheduled Tribe of specified area and State
20.	Any income which accrues or arises- (a) from any source in the State of Sikkim; or (b) by way of dividend or interest on securities.	An individual, being a Sikkimese.
21.	Subsidy from the concerned Board	An assessee who carries on the business of growing and manufacturing tea, rubber, coffee, cardamom or other notified commodity in India
22.	Income under the head "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business.	Any local authority
23.	Any income of a research association, subject to certain conditions	Approved research association
24.	Any income (other than income chargeable under the head "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments)	An approved association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or other notified profession
25.	Any income attributable to the business of production, sale, or marketing, of khadi or products of village industries, subject to certain conditions	An institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860, or under

		any other law corresponding to that Act in force in any part of India.
26.	Any income from the activity of securitisation.	A securitisation trust.
27.	Contributions received from recognised stock exchanges and the members thereof	Any notified Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately.
28.	Contributions received from commodity exchanges and the members thereof.	Any notified Investor Protection Fund set up by commodity exchanges in India, either jointly or separately.
29.	Contributions received from a depository	Any notified Investor Protection Fund set up as per the regulations by a depository.
30.	a. Contribution received from specified persons; b. any income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; c. any income from investment made by the Fund.	Any notified Core Settlement Guarantee Fund, set up by a recognised clearing corporation.
31.	Any income chargeable under the heads "Income from house property" and "Income from other sources".	A registered trade union or an association of registered trade unions
32.	Any interest on securities, and any capital gains on sale, exchange or transfer of such securities	Statutory Provident Fund
33.	Any income of the nature and to the extent, arising from the international sporting event held in India, subject to certain conditions	Any person notified by the Central Government.
34.	Any notified income	A body or authority which has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government.
35.	Any amount received as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage	Any individual
36.	Any specified income	A notified body or authority or Board or Trust or Commission (by whatever name called), or a class thereof with the object of regulating or administering any activity for the benefit of the general public [other than those covered under Schedule VII (Table: Sl. No. 42)]
37.	Any income accruing or arising as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance	Indian Strategic Petroleum Reserves Limited, being a wholly owned subsidiary of the Oil Industry Development Board

	of the directions of the Central Government in this behalf.	under the Ministry of Petroleum and Natural Gas.
<b>38.</b>	Any gratuity computed as per the provisions of sec. 19(1)(Table: Sl. No. 3) to (Table: Sl. No. 6).	Any widow, children or dependants on death of an employee.
<b>38A.</b>	Disability Pension received (including service element and disability element).	An individual who has been a member of the armed forces (including paramilitary forces) of the Union.
<b>38B.</b>	Any interest on compensation amount awarded by Motor Accident Claims Tribunal.	An individual or his legal heir.
<b>38C.</b>	Any compensation in respect of any award or agreement made on account of compulsory acquisition of any land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013	An individual or a Hindu undivided family.
<b>38D.</b>	Capital gains arising from the transfer of specified capital asset under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015	An individual or a Hindu undivided family
<b>39.</b>	Any income falling u/s 10(15)(iic) or (15)(iv)(i) or (194) or (40) of the Income-tax Act, 1961, subject to certain conditions	Any

### Schedule IV: Income not to be included in total income of eligible non-residents, foreign companies and other such persons

Following income, subject to certain conditions, shall not be included in the total income of a tax year of any eligible person:

S.N	Income not to be included in total income	Eligible persons
<b>1.</b>	Interest from Non-Resident (External) Account in any bank in India	A person being an individual, who is a resident outside India
<b>2.</b>	Remuneration received in India	Foreign diplomats
<b>3.</b>	Remuneration received as an employee of foreign enterprises (not engaged in any trade or business in India) for services rendered by him during his stay in India not exceeding 90 days in aggregate in such tax year	An employee of a foreign enterprise, not being a citizen of India.
<b>4.</b>	Salaries received or due for services rendered in connection with his employment on a foreign ship provided his total stay in India does not exceed 90 days, in aggregate, in the tax year.	Non-resident foreign citizen
<b>5.</b>	Remuneration received as an employee of foreign Government for his stay in India in	An employee of the Government of a foreign State, not being a citizen of India.



	connection with his training in a Government undertaking or public sector undertaking	
6.	Royalty or fees for technical services in pursuance of an agreement entered into with the Central Government for providing services in or outside India in projects connected with security of India	Any notified foreign company.
7.	Royalty or fees for technical services rendered in or outside India from National Technical Research Organisation	A non-resident, not being a company, or a foreign company.
8.	Interest received on deposit made on or after 01-04-2005 in an Offshore Banking Unit	Non-resident or a person who is not ordinarily resident.
9.	Income from lease rentals, by whatever name called, of cruise ship received from specified company [upto Tax Year 2028-29]	Foreign company.
10.	Any income derived in India by way of interest, dividends or Capital gains from notified investments made.	The European Economic Community.
11.	Any income received in India in Indian currency on sale of crude oil or any other notified goods or rendering of services	A foreign company having an agreement or an arrangement entered into by the Central Government or approved by the Central Government
12.	Any income accruing or arising on account of storage of crude oil in a facility in India and sale of such crude oil to any person resident in India.	A foreign company having an agreement or an arrangement entered into by the Central Government or approved by the Central Government
13.	Any income accruing or arising on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or arrangement referred to against serial number 12 or on termination of the said agreement or arrangement.	A foreign company.
13A.	Any income arising on account of providing capital goods, equipment or tooling to a contract manufacturer, being a company resident in India. [upto Tax Year 2030-31]	A foreign company, who is providing capital goods, equipment or tooling to the contract manufacturer for use in electronic manufacturing in India.
13B.	Any income which accrues or arises outside India, and is not deemed to accrue or arise in India on rendering any service in India in connection with any notified scheme [exemption is for 5 years]	An individual, being a non-resident for a period of 5 consecutive tax years immediately preceding the tax year during which he visits India for the first time for rendering services in India in connection with any scheme as may be notified by the Central Government.
13C.	Any income accruing or arising in India or deemed to accrue or arise in India by way	Notified foreign company.



	made by a specified person in India, whether in the form of debt or share capital or unit The exemption is subject to certain conditions	
8.	Any income falling u/s 10(23F) and (23FA) of the Income-tax Act, 1961, subject to the conditions as specified therein.	-

### **Schedule VI: Income not to be included in total income of certain eligible persons in international financial services centre (IFSC) or having income therefrom**

Following income, subject to certain conditions, shall not be included in the total income of a tax year of any eligible person:

<b>SN</b>	<b>Income not to be included in total income</b>	<b>Eligible persons</b>
1.	Any income accrued or arisen to, or received, as a result of transfer of capital asset referred to in sec. 70(1)(r) where such transfer takes place on a recognised stock exchange located in any International Financial Services Centre.	Any specified fund.
2.	Any income accrued or arisen to, or received, as a result of transfer of securities (other than shares in a company resident in India).	Any specified fund.
3.	Any income from securities issued by a non-resident where such securities are not issued by a permanent establishment of a non-resident in India.	Any specified fund.
4.	Any income from a securitisation trust, which is chargeable under the head "Profits and gains of business or profession".	Any specified fund.
5.	Any income accrued or arisen to, or received as a result of- a.transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or b.distribution of income on offshore derivative instruments or over-the-counter derivatives.	Non-resident.
6.	Any income by way of royalty or interest on account of lease of an aircraft or a ship in a tax year.	Non-resident.
7.	Any income received from- a.portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of the non-resident; or b.such activity carried out by such person, as may be notified by the Central Government.	Non-resident.
8.	Any income by way of Capital gains arising from the transfer of equity shares of a domestic company where such domestic company is a Unit of an International Financial Services Centre as referred to in sec. 147.	A non-resident, or a Unit of an IFSC, engaged primarily in the business of leasing of aircraft or a ship.
9.	Any income accruing or arising to, or received from a specified fund or on transfer of units in a specified fund.	A unit holder of a specified fund.

10.	Any income of the nature of Capital gains, arising or received on account of transfer of share of a company resident in India.	Any non-resident or a specified fund.
11.	Any income by way of dividends from a company being a Unit of an International Financial Services Centre primarily engaged in the business of leasing of an aircraft or a ship.	A Unit of any IFSC
12.	Any income by way of interest payable.	Non-resident.

### Schedule VII: Persons exempt from tax

Following person, subject to certain conditions, shall not be liable to pay tax on their total income of a tax year:

SN	Eligible persons	Conditions
1.	Any regimental Fund or Non-public Fund established by the armed forces of the Union.	Such Fund is for the welfare of the past and present members of the armed forces or their dependants.
2.	Any notified fund established for the welfare of employees or their dependants and such employees are members of such fund.	a. Such fund- <ol style="list-style-type: none"> <li>i. applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; and</li> <li>ii. invests its funds and contributions and other sums received by it in the forms or modes specified in sec. 350;</li> </ol> b. such fund is approved by the Principal Commissioner or Commissioner and such approval shall at any one time have effect for such tax year or years not exceeding 3 tax years as specified in the order of approval.
3.	Any pension fund set up by the LIC on or after 01-08-1996 or any other insurer under a pension scheme.	a. The contribution is made to such pension scheme by any person for the purpose of receiving pension from such fund; and b. Such scheme is approved by the Controller of Insurance or the Insurance Regulatory and Development Authority established
4.	An authority (whether known as the Khadi and Village Industries Board or by any other name).	Such authority is established in a State by or under a State Act or Provincial Act for the development of khadi or village industries in the State.
5.	Any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central Act or State Act or Provincial Act.	a. Such body or authority provides for the administration of any one or more of public religious or charitable trusts or endowments (including, temples, gurudwaras, wakfs, churches, synagogues, agiaries or a mutt or other places of public religious worship) or societies for religious or charitable purposes, registered under the Societies Registration Act, 1860, or any other law; and

		b. exclusion from total income as provided herein shall not be available to any trust, endowment or society being administered by such body or authority.
6.	SAARC Fund for Regional Projects set up by Colombo Declaration issued on 21-12-1991 by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on 08-12-1985 by the Charter of the South Asian Association for Regional Cooperation.	
7.	Insurance Regulatory and Development Authority	
8.	Central Electricity Regulatory Commission	
9.	Prasar Bharati (Broadcasting Corporation of India)	
10.	The Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND).	
11.	The Prime Minister's Fund (Promotion of Folk Art).	
12.	The Prime Minister's Aid to Students Fund.	
13.	The National Foundation for Communal Harmony.	
14.	The Swachh Bharat Kosh, set up by the Central Government.	
15.	The Clean Ganga Fund set up by the Central Government.	
16.	The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund	
17.	Any University or other educational institution wholly or substantially financed by the Government.	a. It exists solely for educational purposes and not for purposes of profit; and b. If the Government grant to such University or other educational institution exceeds such % of the total receipts including any donations, as may be prescribed, of such University or other educational institution, it shall be considered as being substantially financed by the Government during the relevant tax year.
18.	Any hospital or other institution wholly or substantially financed by the Government.	a. It is for the reception and treatment of persons suffering from illness or mental defectiveness, or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

		<ul style="list-style-type: none"> <li>b. It exists solely for philanthropic purposes and not for the purposes of profit; and</li> <li>c. If the Government grant to such hospital or other institution exceeds such percentage of the total receipts including any donations, as may be prescribed, of such hospital or other institution, it shall be considered as being substantially financed by the Government during the relevant tax year.</li> </ul>
19.	Any University or other educational institution or any hospital or other institution.	<ul style="list-style-type: none"> <li>a. Such University or other educational institution exists solely for educational purposes and not for the purposes of profit;</li> <li>b. such hospital or other institution is for the reception and treatment of persons suffering from illness or mental defectiveness, or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;</li> <li>c. such hospital or other institution exists solely for philanthropic purposes and not for the purposes of profit; and</li> <li>d. the aggregate of annual receipts of such University or Universities or educational institution or institutions, and hospital or hospitals or institution or institutions, does not exceed ₹ 5 crore;</li> <li>e. where such University or other educational institution or such hospital or other institution receives any anonymous donation defined under sec. 355(a), the provisions of sec. 337 (Table: Sl. No. 1) in respect of specified income shall apply mutatis mutandis as they apply in the case of a registered non-profit organisation and such anonymous donations shall be excluded from the income on which no tax is payable.</li> </ul>
20.	A Mutual Fund registered under the SEBI Act, 1992 or regulations made thereunder.	
21.	Any Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India.	Such conditions as the Central Government may, by notification, specify.
22.	A recognised provident fund.	
23.	An approved superannuation fund.	
24.	An approved gratuity fund.	
25.	Deposit-linked Insurance Fund established u/s 3G of the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948	



26.	Deposit-linked Insurance Fund established u/s 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952	
27.	Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948	
28.	An agricultural produce market committee or board constituted under any law.	Such committee or board is constituted for the purpose of regulating the marketing of agricultural produce.
29.	A corporation established by a Central Act or State Act or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by the Government).	Such corporation or other body or institution or association has been established or formed for promoting the interests of the members of the Scheduled Castes or the Scheduled Tribes or backward classes, or of any two, or all of them.
30.	A corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.	
31.	Any corporation established by a Central Act or State Act or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.	
32.	Any co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes, or both.	Membership of such co-operative society shall consist of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies.
33.	Coffee Board	
34.	Rubber Board	
35.	Tea Board	
36.	Tobacco Board	
37.	Marine Products Export Development Authority	
38.	Agricultural and Processed Food Products Export Development Authority	
39.	Spices Board	
40.	Coir Board	
41.	New Pension System Trust	
42.	Any body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central Act or State Act with one or more of the following purposes,- a. dealing with and satisfying the need for housing accommodation; b. planning, development or improvement of cities, towns and villages;	Such body or authority or Board or Trust or Commission is notified by the Central Government.

	<p>c. regulating, or regulating and developing, any activity for the benefit of the general public; or</p> <p>d. regulating any matter, for the benefit of the general public, arising out of the object for which it has been created.</p>	
43.	National Credit Guarantee Trustee Company Limited	
44.	A credit guarantee fund established and wholly financed by the Central Government and managed by the National Credit Guarantee Trustee Company Limited.	
45.	Credit Guarantee Fund Trust for Micro and Small Enterprises	
46.	An infrastructure debt fund	Such fund is set up as per the guidelines is by the Central Government, by notification.
47.	An institution established for financing the infrastructure and development set up under an Act of Parliament.	Such exclusion from total income is for consecutive tax years, beginning from the year in which such institution is set up and institution is notified by the Ce Government.
48.	A developmental financing institution, licensed by the Reserve Bank of India under an Act of Parliament referred to against serial number 47.	<p>a. Such institution is notified by the Ce Government;</p> <p>b. exclusion of such income from the income is for 5 consecutive tax y beginning from the tax year in which developmental financing institution is up; and</p> <p>c. the Central Government may extend period of exclusion for a further period exceeding 5 more consecutive tax y subject to fulfilment of such condition specified in the said notification.</p>
49.	New Development Bank.	Such exemption shall be subject to furnish information in such form and manner, as me prescribed.

### Schedule VIII: Income not to be included in the total income of political parties and electoral trusts

Following income of political parties and electoral trusts are not taxable:

SN	Income not to be included in total income	Conditions
1.	<u>Political party registered u/s 29A of the Representation of the People Act, 1951</u>	a. Such political party keeps and maintains such book account and other documents as would enable the Asses Officer to properly deduce its income therefrom;

	<p>Income which is chargeable under the head</p> <ul style="list-style-type: none"> <li>• "Income from house property"; or</li> <li>• "Income from other sources";</li> <li>• or "Capital gains"; or</li> <li>• any income by way of voluntary contributions received from any person.</li> </ul>	<ul style="list-style-type: none"> <li>b. In respect of each such voluntary contribution other than contribution by way of electoral bond in excess of ₹ 20,000, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution;</li> <li>c. the accounts of such political party are audited by an accountant;</li> <li>d. no donation exceeding ₹ 2,000 is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed or through electoral bond;</li> <li>e. the treasurer of such political party or any other person authorised by that political party in this behalf submits a report u/s 29C(3) of the Representation of the People Act, 1951 for such tax year, and</li> <li>f. such political party furnishes a return of income for the tax year as per the provisions of sec. 263(1)(a)(iii) and 263(2) on or before the due date referred to in sec. 263(1)(c).</li> </ul>
<p>2.</p>	<p><u>An electoral trust</u> Any voluntary contributions received.</p>	<ul style="list-style-type: none"> <li>a. Such electoral trust distributes to any political party, registered u/s 29A of the Representation of the People Act, 1951, during the said tax year, 95% of the aggregate donations received by it during the said tax year along with the surplus, if any, brought forward from any earlier tax year; and</li> <li>b. such electoral trust functions as per the rules made by the Central Government.</li> </ul>

# AGRICULTURAL INCOME

*Agriculture income is exempt under the Indian Income Tax Act. The reason for the exemption of agriculture income from Central Taxation is that the Constitution gives exclusive power to make laws with respect to taxes on agricultural income to the State Legislature.*

## **Meaning**

By virtue of sec. 2(5), agricultural income means -

1. **Rent or Revenue:** Any rent or revenue derived from a land, which is *situated in India & is used for agricultural purposes*<sup>s</sup>;

### **Taxpoint:**

- *Rent may be in cash or in kind.*
- *Assessee may be the owner or tenant of such land.*

2. **Cultivation of Land:** Any income derived from such land by agriculture<sup>s</sup>
3. **Income from Process:** Any income derived from such land by the performance by –
  - a) a cultivator;
  - b) receiver of rent in kind;- of any process ordinarily employed by a them to render the produce raised or received by him fit to be taken to market.

4. **Income from Sale of Produce:** Any income derived from such land by the sale by
  - a) a cultivator of the produce raised by him; or
  - b) receiver of rent-in-kind of the produce received by him;- in respect of which no process has been performed other than a process required to render it fit for the market.

**Taxpoint:** *The process must be employed only to convert 'the produce or rent in kind' in marketable form. If marketing process is performed on the 'produce or rent in kind', which can be sold in its raw form in market, then income derived from such product is partly agricultural & partly non-agricultural income. (Detail discussion is given later in this chapter)*

5. **Income from Let Out of Agricultural House Property:** Any income derived from a building subject to fulfillment of the following conditions -
  - a) The building should be occupied by the cultivator or receiver of rent in kind.
  - b) The building should be on or in the immediate vicinity of the land, being situated in India and used for agricultural purposes.
  - c) The building should be used as dwelling house or store-house or other out building.
  - d) The land is either situated in –
    - i) Rural area; or

ii) Urban area<sup>1</sup> and assessed to land revenue / local rates.

**Taxpoint:**

- Where such land or building is used for non-agricultural purpose then any income derived from such land or building shall not be treated as agricultural income.
- Income derived from land being let out for storing crop shall not be agricultural income.
- Building should be owned and occupied by the land-holder if he receives rent or revenue from the land. On the other hand, in case of cultivator or receiver of rent in kind, it is enough that the building is occupied by him.

6. Any income derived from saplings or seedlings grown in a nursery

- 💡 a) **Profit on transfer of agricultural land:** Profit on transfer of agricultural land shall not be treated as agricultural income.
- b) **Nexus between agro-activity and agro-income:** There must be a close nexus between agro-activity and agro-income. Income by way of sale of commodity, being different from what is raised and processed, is not agricultural income. E.g. Assessee growing mulberry leaves to feed silkworms and to obtain silk-cocoons, income on sale of such silk-cocoons shall not be treated as agricultural income.

**§Agriculture or Agricultural operations or Agricultural purposes:** The Act nowhere defines the term agricultural operations or agricultural purposes. However, the Supreme Court laid down guidelines for the determination of the scope of these terms in *CIT -vs.- Raja Benoy Kumar Sahas Roy*. Accordingly, for the purpose, agricultural activity is divided into two parts:

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<sup>1</sup> Following is considered as urban area:

- a. land which is situated within the jurisdiction of any Municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or Cantonment Board having population of 10,000 or more; or
- b. in any area within the distance, measured aerially,—

Population of the municipality or cantonment board	Area within the aerial distance from the local limits of such municipality or cantonment board is treated as non-rural area
More than 10,000 but not exceeding 1,00,000	Upto 2 kilometres
More than 1,00,000 but not exceeding 10,00,000	Upto 6 kilometres
More than 10,00,000	Upto 8 kilometres

Population, according to the last preceding census of which the relevant figures have been published before the first day of the tax year, shall be considered.

a) **Basic Operation:** It means application of human skill & labour upon the land, prior to germination.

E.g. Tilling of land, sowing of seeds, planting, irrigation, etc.

**Taxpoint:** Any spontaneous growth from land itself (i.e. without any human effort) cannot be termed as agricultural operation.

b) **Subsequent Operation:** It means operations -

- which fosters the growth and preserves the produce;
- for rendering the produce fit for sale in market; and
- which are performed after the produce sprouts from the land.

E.g. Digging the soil around the growths, removal of undesirable undergrowths, weeding, tending, pruning, cutting, harvesting, etc.

**Taxpoint:**

Activity	Whether treated as agricultural activity?
Mere Basic Operation	Agricultural activity
Mere Subsequent Operation	Not an agricultural activity
Subsequent operation together with basic operation	Agricultural activity

### Instances of Agricultural (Agro) Income

1. Income from growing trade or commercial products like jute, cotton, etc. is an agro income.
2. Income from growing flowers and creepers is an agro income.
3. Plants sold in pots are an agro income provided basic operations are performed.
4. **Remuneration and interest to partner:** Any remuneration (salary, commission, etc.) received by a partner from a firm engaged in agricultural operation is an agro income.  
Interest on capital received by a partner from a firm, engaged in agricultural operation is an agro income.
5. Income arising by sale of trees grown on denuded parts of the forest after replanting and by carrying on subsequent operations, is an agro income.
6. Compensation received from insurance company for damage caused by hail-storm to the green leaf of the assessee's tea garden is agricultural income. Further, no part of such compensation consists of manufacturing income, as such compensation cannot be apportioned under Rule 271 between manufacturing income and agricultural income.

7. Any fee derived from land used for grazing of cattle, being used for agricultural operation, is an agro income.

### **Instances of Non-agricultural (Non-agro) Income**

1. Salary received by an employee from any business (having agricultural income) is non-agro income.
2. Dividend received from a company engaged in agricultural operation is non-agro income.
3. Income from salt produced by flooding the land with sea-water is non-agro income.
4. Income from fisheries, poultry farming, dairy farming, butter & cheese making, etc. is non-agro income.
5. Breeding & rearing of livestock is non-agro income.
6. Interest received by a moneylender in the form of agricultural produce is non-agro income.
7. Profit on sale of standing crops after harvest, where such crops were acquired through purchase is non-agro income.
8. Royalty income from mines is non-agro income.
9. Remuneration to a Director or Managing Director from a company engaged in agricultural business is non-agro income. The provision holds good even when such remuneration is on the basis of certain percentage of net profit.
10. Income earned by a cultivator from conversion of sugarcane (raised on own land) to jaggery is non-agro income to the extent to which income is related to such conversion only. This is because sugarcane itself is marketable.
11. Interest on arrears of rent receivable in respect of agricultural land is non-agro income.
12. Income from a land situated outside India is non-agro income
13. Annuity received by a person in consideration of transfer of agricultural land, is non-agro income.
14. Income on supply of water for agricultural operation is non-agro income. The provision holds good even when such income is received in the form of agro-produce.
15. Income from sale of trees and grasses grown spontaneously (without any human effort), is non-agro income.

### **Treatment of Partly Agricultural & Partly Non-Agricultural Income**

In case assessee is engaged in an integrated activity, comprising of agricultural activity as well as non- agricultural activity, then profit of such integrated activity shall be segregated into agricultural income and non-agricultural income in the following manner as giben in Rule 271–

Case	Agricultural	Non-
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	<b>Income</b>	<b>Agricultural Income</b>
Income derived from the sale of tea <b>grown and manufactured</b> by the seller in India	60% of income	40% of income
E.g., If an assessee earns ₹ 5 lakh (as per sec. 26) from the business of growing & manufacturing tea in India, then his business income will be ₹ 2 lakh (i.e., 40% of ₹ 5 lakh) & agro income will be ₹ 3 lakh (i.e. 60% of ₹ 5 lakh)		
Income derived from the sale of centrifuged latex or cenex or latex-based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from <b>rubber plants grown by the seller in India</b>	65% of income	35% of income
Income derived from the sale of coffee		
• Grown and cured by the seller in India	75% of income	25% of income
• Grown, cured, roasted, and grounded by the seller in India with or without mixing chicory or other flavouring ingredients,	60% of income	40% of income

### **Any other case**

For computing agricultural income from a business having both agricultural as well as non-agricultural income,

1. Assessee is required to prepare two Profit or Loss statements, one for agro-business & another for non agro-business
2. Agro expenses debited to Agro Profit or Loss and non agro expenses shall be debited to Non agro-business Profit or Loss
3. Market value of any agricultural produce, which is utilised as raw material in such business, is to be treated as income for agro-business and expenditure for non agro-business.

## **Impact of agricultural income on tax computation**

Schedule II (Table Sl. No. 1) exempts agricultural income from tax as our Constitution does not provide power to the Parliament to levy tax on agro-income. However, since 1973 an indirect method<sup>2</sup> has been found, to levy tax on agro-income. According to this

<sup>2</sup> On the recommendation of the Committee on Taxation of Agricultural Wealth and Income headed by Dr. K. N. Raj

method, agricultural income is included in the total income of the assessee for deciding the tax slab of the assessee.

The way to apply higher rate of tax-slab on non-agricultural income by including agricultural income in the total income of the assessee are as under:

**Conditions for including agricultural income in the total income of the assessee**

1. The assessee is an individual, a Hindu-undivided family, a body of individual, an association of person or an artificial juridical person.
2. The assessee has non-agricultural income exceeding the maximum amount of exemption (i.e. ₹ 4,00,000/- if assessee is paying tax under the default tax regime, however, if assessee is paying tax under old regime then in case of Senior citizen ₹ 3,00,000, Super Senior citizen ₹ 5,00,000 and in case of other individual/ HUF/AOP / BOI /artificial juridical person ₹ 2,50,000)
3. The agricultural income of the assessee exceeds ₹ 5,000.

**Treatment**

**Step 1:** Compute income tax on total income of assessee including Agro-income.

**Step 2:** Compute income tax on (Agro-income + Maximum exempted limit)

**Step 3:** Tax liability before cess = (Tax as per step 1) - (Tax as per step 2)

**Illustration 1**

Mr. X aged 42 years has non-agro income of ₹ 17,30,000 and agro income of ₹ 3,10,000. Compute his tax liability for the tax year 2026-27.

How shall your answer differ if assessee has opted for old regime.

**Solution**

Computation of tax liability of Mr. X for the tax year 2026-27

Particulars	₹
Income Tax on ₹ 20,40,000 (i.e. agro income ₹ 3,10,000 + non agro ₹ 17,30,000)	2,10,000
Less: Tax on ₹ 7,10,000 (i.e. agro income ₹ 3,10,000 + maximum exempted limit ₹ 4,00,000)	15,500
Tax liability	1,94,500
Less: Rebate u/s 156	Nil
	1,94,500
Add: Health & Education Cess (4% of ₹ 1,94,500)	7,780
<b>Tax and cess payable (Rounded off u/s 516)</b>	<b>2,02,280</b>

Computation of tax liability of Mr. X for the tax year 2026-27 [If he has opted for old regime]

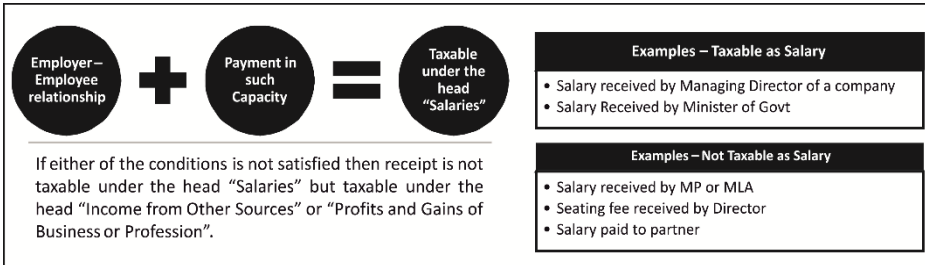
Particulars	₹
Income Tax on ₹ 20,40,000 (i.e. agro income ₹ 3,10,000 + non agro ₹ 17,30,000)	4,24,500
Less: Tax on ₹ 5,60,000 (i.e. agro income ₹ 3,10,000 + maximum exempted limit ₹ 2,50,000)	24,500
Tax liability	4,00,000
Less: Rebate u/s 156	Nil
	4,00,000
Add: Health & Education Cess (4% of ₹ 4,00,000)	16,000
<b>Tax and cess payable (Rounded off u/s 516)</b>	<b>4,16,000</b>

# SALARIES

*“Salary is the recompense or consideration given to a person for the pains he has bestowed upon another’s business” – Stroud’s Judicial Dictionary*

## Basic Elements of Salary

- Payer-payee must have employer and employee (or Master & Servant) relationship; &
- Payment must have been made by the employer in such capacity.



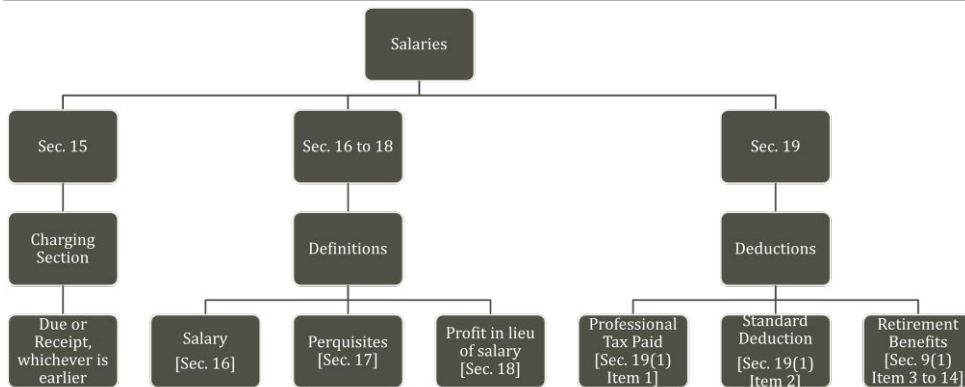
## Employer-employee relationship

A payment can be construed as salary only if the payer is the employer and the payee is the employee of the payer.

Case	Taxable as Salary	Taxable as
<b>Contract of service:</b> The employer can direct and control the duties and the manner of performance of the employee hence employer-employee relationship exists in such contract.	✓	-
<b>Contract for Service:</b> The contractee can simply decide and quote the object or target to be achieved but cannot decide or direct the manner of performance.	✗	PGBP
Commission to agent by Principal	✗	BP / OS
Salary received by a partner from its firm	✗	BP
Salary received by proprietor from his proprietorship firm	✗	✗
Pension received by the widow of deceased employee	✗	OS
A college teacher receives fees from university for examining answer scripts	✗	OS
Remuneration received by Judges	✓	-
Remuneration to non-executive director	✗	OS

Case	Taxable as Salary	Taxable as
Remuneration to executive director	✓	-
Directors' sitting fee	✗	OS
A payment made to MP or MLA	✗	OS
Member of ICMAI examining answer script of CMA Exam	✗	OS
Pension from a former employer	✓	-

## Section-wise Scheme



## Definition of Salary [Sec. 16]

Salary includes:

- a. wages;
- b. any annuity or pension;
- c. any gratuity;
- d. any fees or commission;
- e. perquisites;
- f. profits *in lieu* of, or in addition to, any salary or wages;
- g. any advance of salary;
- h. any payment received by an employee in respect of any period of leave not availed of by him i.e. leave salary;
- i. the annual accretion to the balance at the credit of an employee participating in RPF, to the extent it is taxable as per para 6 of Part A of Schedule XI;



- j. the sums that are comprised in the transferred balance as referred to in para 11(2) of Part A of Schedule XI of an employee participating in RPF, to the extent it is taxable;
- k. the contribution made in any tax year, to the account of an employee under NPS referred to in sec. 124 (old – 80CCD); and
- l. the contribution made by the Central Government to the *Agniveer* Corpus Fund account of an individual enrolled in the *Agnipath* Scheme referred to in sec. 125 (old – 80CCH).

**Taxpoint**

- **Salary & Wages** are identical in the Income-tax Act
- **Remuneration for Extra Work**: Where an employee gets extra payment from his employer (in such capacity) for work performed outside the duties of his office and thus, such payment shall be taxable as salary.
- **Salary from more than one source**: If an individual receives salary from more than one employer during the same tax year, salary from each employer shall be accumulated and taxable under the head “Salaries”.
- **Salary from former, present or prospective employer** is chargeable to tax under the head “Salaries”. E.g. Pension from a former employer and advance salary from prospective employer shall be taxable under the head “Salaries”.
- **Foregoing of salary**: Once salary has been earned by an employee, its subsequent waiver does not make it exempt from tax liability. Such waiver shall be treated as application of the income.

**Basis of charge [Sec. 15]**

Salary is chargeable to tax either on ‘*due*’ basis or on ‘*receipt*’ basis, whichever is **earlier**. Hence, taxable salary includes:

<b><i>Advance salary</i></b> (on ‘receipt’ basis)	Salary paid in advance is taxable in the year of receipt. Such advance salary shall not be included again in the total income when the salary becomes due.
<b><i>Outstanding salary</i></b> (on ‘due’ basis)	Salary falling due is taxable in the year in which it falls due. Such due salary shall not be included again in the total income when it is received.
<b><i>Arrear salary</i></b> (on ‘receipt’ basis)	Any increment in salary with retrospective effect which have not been taxed in the past, such arrears will be taxed in the year in which it is received

**Place of accrual of salary**

Salary which is received in India or earned in India shall be taxable in hands of all assessee whether resident or non resident in India. Salary is deemed to be earned in India provided -

- (a) The service is rendered in India;
- (b) The rest period or leave period, which is preceded and succeeded by the service rendered in India and forms part of the service contract of employment – Sec. 9(3)(a)

**Exceptions:** Salary paid to a Government employee, being a citizen of India, is deemed to accrue in India, irrespective of place of work [Sec. 9(3)(b)]

**Taxpoint:** Salary is earned at the place where service is rendered.

Employee	Employer	Place of service	Salary received	Taxable
Any	Any	India	Any where	Yes
Any	Any	Any where	In India	Yes
Ordinarily resident in India	Any	Any where	Any where	Yes
Indian citizen	Government	Outside India	Any where	Yes
Not ordinarily resident / Non-resident	Any	Outside India	Outside India	No

## Computation of Salary, at a glance

Computation of income under the head “Salaries” of ..... for the Tax Year .....

Particulars	Details	Amount
Basic Salary		*****
Fees		*****
Commission		*****
Bonus		*****
Retirement Benefits like Gratuity, Commuted Pension, etc.) (Deduction, which is available u/s 19, shall be reduced later)		*****
Uncommuted Pension		*****
<u>Allowances:</u>		
Dearness Allowance / Dearness Pay	*****	
House Rent Allowance	*****	
Children Education Allowance	*****	
Children Hostel Allowance	*****	

Entertainment Allowance	*****	
Medical Allowance	*****	
Conveyance Allowance	*****	
City Compensatory Allowance	*****	
Uniform Allowance	*****	
Professional Development Allowance	*****	
Transport Allowance	*****	
Other Allowances	*****	*****
<u>Value of Perquisites</u>		
Accommodation	*****	
Any Obligation of Employee paid by Employer	*****	
Shares and securities issued under ESOP	*****	
Gas, Electricity & Water	*****	
Medical Facility	*****	
Other fringe benefits	*****	*****
Leave Travel Concession		*****
Employer's contribution to Provident Fund		*****
Interest on Recognised Provident Fund		*****
Any other item		*****
<b>Gross Salary</b>		*****
<i>Less: Deduction u/s 19</i>		
Standard Deduction	****	
Tax on employment/Professional tax [Available only if assessee opts for old tax regime]	****	
Deductible Retirement benefits	****	****
<b>Taxable Salary</b>		*****

Computation is illustrative

### Fully taxable Components of Salary

- Basic Salary / Wages
- Dearness Allowance (DA) or Dearness Pay (DP), whether forming part of retirement benefits or not









- Fees, Commission and Bonus
- Retirement benefit (first fully included in gross salary and then deduction (in some cases and to some extent) u/s 19 is available.
- Annuity or pension
- Perquisite (except few)
- Profit in lieu of salary
- Contribution made by the employer in any tax year, to the account of an employee under NPS referred to in sec. 124 (Old - 80CCD)
- Contribution made by the CG in any tax year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in sec. 125 (old - 80CCH).

### Profits in lieu of salary [Sec. 18]

Following is taxable as profits in lieu of salary:

1. Compensation from employer or former employer at or in connection with the
  - (a) termination of his employment; or
  - (b) modification of the terms and conditions of employment.
2. Any payment due to or received from any person before joining any employment with that person or after cessation of employment with that person
3. Any payment due to or received by the assessee
  - i. from an employer or former employer.
  - ii. from unrecognised provident fund or such other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions.
  - iii. Any sum received by the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy.

**Exceptions:** However, following are not included:

- Statutory provident fund [Sch II Table Sl 3]
- Accumulate balance in RPF [Sch II Table Sl 4]
- Superannuation Fund [Sch II Table Sl 8]
- Special Allowance from employer [Sch III Table Sl 11]

### Allowances

Allowance means *fixed* quantum of money given *regularly* in addition to salary to meet particular requirement. The name of particular allowance may reveal the nature of requirement, e.g. House Rent Allowance, Tiffin Allowance, Medical Allowance etc.

#### Allowances at a glance

Table SN. of	Particulars	Taxability	
		Old Regime	New Regime

Sch III			
11	House Rent Allowance	Amount received by the employee in excess of specified limits will be taxable.	No exemption
12	Special allowance or benefit, not being in the nature of a perquisite, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit. Following allowances are covered		
	<b><u>Cat A</u></b> a. Travel or Tour or Transfer* Allowance b. Daily Allowance c. Conveyance Allowance	i. Actual allowance received; or ii. Actual amount spent for the purpose, - whichever is less would be exempt	
	<b><u>Cat B</u></b> d. Helper Allowance e. Uniform Allowance f. Research or Training Allowance	i. Actual allowance received; or ii. Actual amount spent for the purpose, - whichever is less would be exempt	No Exemption
13	Any allowances granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides or to compensate him for the	Amount received by the employee in excess of specified limits [specified under rule 280(2)] will be taxable. <b><u>Taxpoint:</u></b> Deduction is available	Exemption is available only in respect of transport allowance to employee who is blind / deaf and dumb / orthopaedically handicapped

\* Allowance granted to meet the cost of travel on transfer includes any sum paid in connection with transfer, packing and transportation of personal effects on such transfer.

increased cost of living E.g., City Compensatory Allowance, Tiffin Allowance, Medical Allowance, Servant Allowance, Transport Allowance, etc.	irrespective of actual expenditure
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### **Tax treatment of various allowances are as follows**

Following allowances are fully taxable:

<b>Allowances</b>	<b>Meaning</b>
<b>City Compensatory Allowance</b>	An allowance to meet personal expenses, which arise due to special circumstances, or to compensate extra expenditure by reason of posting at a particular place.
<b>Tiffin Allowance</b>	An allowance to meet the expenditure on tiffin, refreshment etc.
<b>Medical Allowance</b>	An allowance to meet the expenditure on medical treatment etc.
<b>Servant Allowance</b>	An allowance to meet the expenditure of servant for personal purpose.
<b>Non-practicing Allowance</b>	Allowance given to professionals to compensate them for restriction on private practice.
<b>Warden or Proctor Allowance</b>	Allowances given to employees of educational institutions for working as warden of the hostel or working as proctor in the institutions.
<b>Deputation Allowance</b>	Allowances given to an employee, when he is sent on deputation for a temporary period from his permanent place of service.
<b>Entertainment Allowance</b>	It is an allowance to meet expenditure on entertainment, by whatever name called

### **House rent allowance (HRA) [Sch III Table S. No. 11 r.w.r. 279]**

An allowance to meet the expenses in connection with the rent of the house, by whatever name called.

**Tax Treatment:** Minimum of the following is exempted from tax (**Available only if assessee opts for old tax regime**):

- a. Actual HRA received.
- b. An amount equal to 50% of salary<sup>1</sup> (when *house is situated* in Mumbai, Kolkata, Delhi, Chennai, Hyderabad, Pune, Ahmedabad and Bangaluru) **or** 40% of salary<sup>1</sup> (when house is situated in any other place) for the relevant period

- c. The excess of rent paid over 10% of salary<sup>1</sup>. [Arithmetically, (Rent Paid – 10% of Salary)]

<sup>1</sup> Salary here means: Basic + D.A. (if it forms a part of retirement benefit) + Commission as a fixed % on turnover.

**Notes**

- a) Salary shall be determined on due basis for the period for which the employee occupies rented accommodation in the tax year and gets HRA.
- b) Exemption is not available if employee lives in his own house, or in a house for which he does not pay any rent.
- c) For criteria of 50% or 40% of salary as deduction, place of employment is not significant but place where the house is situated is important.
- d) Deduction from HRA depends on Salary of the employee, Amount of HRA, place of residence (not place of employment), rent paid by the employee.

**Illustration 1**

Compute the taxable house rent allowance of Mr. Abhijeet (opts for the old tax regime) from the following data:

- Basic Salary ₹ 50,000 p.m., D.A. ₹ 20,000 p.m., HRA ₹ 40,000 p.m., Rent paid ₹ 40,000 p.m. in Jaipur.
- On 1/07/2026, there is an increment in Basic salary by ₹ 10,000.
- On 1/10/2026, employee hired a new flat in Kolkata at the same rent as he was posted to Kolkata.
- On 1/01/2027, employee purchased his own flat and resides there.

**Solution**

Computation of taxable house rent allowance of Mr. Abhijeet for the tax year 2026-27

Particulars	Details	Amount	Amount
House Rent Allowance (from 1.4.2026 to 30.6.2026)		1,20,000	
<i>Less: Min. of the following being exempted</i>			
a) Actual Amount Received	1,20,000		
b) 40% of Salary [(₹ 50,000 + ₹ 20,000) x 3]	84,000		
c) Rent paid – 10% of salary (₹ 1,20,000 – ₹ 21,000)	99,000	84,000	36,000
House Rent Allowance (from 1.7.2026 to 30.9.2026)		1,20,000	
<i>Less: Minimum of the following being exempted</i>			
a) Actual Amount Received	1,20,000		
b) 40% of Salary [(₹ 60,000 + ₹ 20,000) x 3]	96,000		
c) Rent paid – 10% of salary (₹ 1,20,000 – ₹ 24,000)	96,000	96,000	24,000
House Rent Allowance (from 1.10.2026 to 31.12.2026)		1,20,000	
<i>Less: Minimum of the following being exempted</i>			
a) Actual Amount Received	1,20,000		
b) 50% of Salary [(₹ 60,000 + ₹ 20,000) x 3]	1,20,000		
c) Rent paid – 10% of salary (₹ 1,20,000 – ₹ 24,000)	96,000	96,000	24,000
House Rent Allowance (from 1.1.2027 to 31.3.2027)			

(Fully taxable as assessee resides in his own house)		1,20,000
<b>Taxable House Rent Allowance</b>		<b>2,04,000</b>

If he is under new tax regime, entire HRA of ₹ 4,80,000 is taxable. No exemption is available.

***Allowances, deduction from which depends on actual expenditure [Sch III Table S. No. 12 with Rule 280(1)]***

Allowance	Meaning
<b>Travel or transfer Allowance</b>	An allowance to meet the cost of travel on tour. Cost of travel includes any sum paid in connection with transfer, packing and transportation of personal effects on such transfer.
<b>Daily Allowance</b>	An allowance granted on tour (or for the period of journey in connection with transfer) to meet the ordinary daily charges incurred by employee on account of absence from his normal place of duty.
<b>Conveyance Allowance</b>	Any allowance granted to meet the expenditure on conveyance in performance of duties of the office, provided free conveyance is not provided by the employer. <b><i>Taxpoint:</i></b> Expenditure for covering the journey between office and residence is not treated as expenditure in performance of duties of office and consequently not covered under this allowance. (Refer Transport allowance)
<b>Helper / Assistant Allowance</b>	Any allowance to meet the expenditure of assistant or helper, provided such helper is appointed for the performance of duties of an office. <b><i>Taxpoint:</i></b> Servant allowance is fully taxable.
<b>Research Allowance</b>	Any allowance granted to encourage academic, research and other professional pursuits. This allowance may also be termed as Professional Development / Academic allowance
<b>Uniform Allowance</b>	Any allowance to meet the expenditure on purchase or maintenance of uniform wear, during the performance of duties of an office. <b><i>Taxpoint:</i></b> Uniform allowance is different from Dress allowance. Dress allowance is fully taxable.

**Tax Treatment of aforesaid allowances**

Minimum of the following shall be exempted:

- a) Actual amount received; or
- b) Actual expenditure incurred for such purpose.

***Taxpoint:*** Under new regime, aforesaid exemption is available only in respect of Travel or transfer Allowance, Daily Allowance and Conveyance Allowance.

***Allowances, deduction from which do not depends on actual expenditure [Sch III Table S. No. 13 read with Rule 280(2)] [No benefit is available under new tax regime except for transport allowance]***

***Children Education Allowance and Children Hostel Allowance [Available if opts for the old tax regime]***

Children Education Allowance - [S.N. 7]	Children Hostel Allowance - [Item 8]
Min. of the following is not taxable: a. ₹ 3,000 per month per child (to the maximum of two children) b. Actual amount received for each child (to the maximum of two children)	Min. of the following is not taxable: a. ₹ 9,000 per month per child (to the maximum of two children) b. Actual amount received for each child (to the max. of two children)

**Taxpoint**

- a) Child includes adopted child, step-child but does not include illegitimate child and grandchild.
- b) Child may be major or minor child.

**Truck Driver's Allowance [Available if opts for the old tax regime]**

Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport (from one place to another place), provided such employee is not in receipt of daily allowance.

**Treatment:** Minimum of the following shall be exempted:

- a) 70% of allowance.
- b) ₹ 25,000 p.m.

**Taxpoint:** If assessee is in receipt of Daily allowance then above allowance shall be fully taxable.

**Transport Allowance [Available under both regime]**

An allowance to meet the expenditure for the purpose of travelling between the place of residence and the place of duty.

**Available to:** Assessee is blind / deaf and dumb / orthopaedically handicapped.

**Treatment:** Minimum of the following shall not be taxable:

- a. Actual amount received; or
- b. ₹ 15,000 (for metro cities / ₹ 8,000 for other cities) + dearness allowance thereon p.m.

**Taxpoint:** No exemption is available to the assessee other than specified above.

**Other Allowance [Rule 280(2)] [Available if opts for the old tax regime]**

SN	Allowance	Exemption upto
1	Special Compensatory (Remote Locality) Allowance Places covered under Tough Location Allowance-I	₹ 7,000 p.m., when not claimed exemption mentioned at Sl. No. 4, 5 or 9

2	Special Compensatory (Remote Locality) Allowance Places covered under Tough Location Allowance-II	₹ 4,500 p.m., when not claimed exemption mentioned at Sl. No. 4, 5 or 9
3	Special Compensatory (Remote Locality) Allowance Places covered under Tough Location Allowance-III	₹ 1,500 p.m., when not claimed exemption mentioned at Sl. No. 4, 5 or 9
4	Compensatory Field Area Allowance [Specified location]	₹ 13,500 p.m.
5	Compensatory Modified Field Area Allowance [Specified location]	₹ 8,000 p.m.
9	Special allowance in the nature of counter-insurgency allowance granted to the members of armed forces operating in areas away from their permanent locations	₹ 22,000 p.m.
11	High altitude (uncongenial climate) allowance granted to the member of the armed forces operating in high altitude Areas	Ranging between ₹ 4,500 p.m. to ₹ 30,000 p.m.
12	Underground allowance granted to an employee who is working in uncongenial, unnatural climate in underground mines	15% of basic pay
13	Special allowance granted to the members of the armed forces in the nature of special compensatory highly active field area allowance	₹ 22,000 p.m.
14	Special allowance granted to the member of the armed forces in the nature of Island (duty) allowance or Island Special Duty Allowance [Specified area]	10% to 20% of basic pay
15	Siachen Allowance granted to the members of the armed Forces [Siachen area of Ladakh]	₹ 42,500 p.m.

**Allowance to Government employees outside India [Available under both regime]**

As per Sch III (Table S. No. 9), any allowance or perquisite allowed **outside India** by the **Government** to an **Indian citizen** for rendering services outside India is not taxable.

**Allowance received from UNO (United Nations Organisation) [Available under both regime]**

Basic salary or Allowance paid by the UNO to its employees are not taxable.

**Compensatory allowance under Article 222(2) of the Constitution [Available under both regime]**

It is fully exempt from tax.

**Allowance to judges of the High Court or the Supreme Court [Available under both regime]**

Allowance to High Court Judges or Sumptuary allowance to High Court Judges / Supreme Court Judges / Chief Election Commissioner / Other Election Commissioner is exempt.

## Perquisite [Sec. 17]

### Meaning and Chargeability

In common parlance, perquisite means, any casual emoluments or benefits attached to an office or position, in addition to salary or wages, which is availed by an employee. In other words, perquisites are the benefits in addition to normal salary.

As per sec. 17(1), *Perquisite* includes -

- a. Value of rent-free accommodation *provided* by the employer.
- b. Value of concession in rent in respect of accommodation *provided* by his employer.
- c. The value of any benefit or amenity granted or *provided* free of cost or at concessional rate to 'specified employees'.
- d. The value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.
- e. The value of any other benefit or amenity, as may be prescribed;
- f. Amount *paid* by an employer in respect of any obligation which otherwise would have been payable by the employee.

**Taxpoint:** *Any obligation of the employee met by employer shall be taxable on cash basis i.e. in the year in which amount is paid by the employer.*

- g. Any sum payable by the employer to effect an assurance on the life of the assessee or to effect a contract for an annuity, whether directly or through a fund, other than—
  - i. a recognised provident fund; or
  - ii. an approved superannuation fund; or
  - iii. a Deposit-linked Insurance Fund\*
- h. Aggregate amount of any contribution, in excess of ₹ 7,50,000 in a tax year, made to the account of the assessee by the employer—
  - i. in a recognised provident fund;
  - ii. in the scheme referred to in Sec. 124(1) [old 80CCD]; and
  - iii. in an approved superannuation fund;
- i. Annual accretion by way of interest, dividend or any other amount of similar nature during the tax year to the balance at the credit of the fund or scheme referred to in clause (h), computed in prescribed (to the extent it relates to the contribution referred to in the said clause in any tax year).

### Other benefits

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\* established under Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 / the Employees' Provident Funds and Miscellaneous Provisions Act, 1952

## Other Benefits



Motor Car Facility



Other Vehicle Facility



Domestic Servant



Gas, Electricity & Water



Education Facility



Transport Facility




Nil or Low Rate Loan Facility




Tour / Holiday Home Facility



Use of Movable Asset 

Sale of Movable Asset 

Medical Facility 

Leave Travel Concession 

Meal Facility 

Gift, Voucher or Token 

Credit Card Facility 

Club Facility 

### Taxpoint

- a) Perquisites are taxable under the head “Salaries” only if, they are:
- Allowed by an employer to his employee or *any member of his household*.
  - Resulting in the nature of personal advantage to the employee.
  - Derived by virtue of employee’s authority.
- b) Perquisite may be contractual or voluntary. However, an unauthorized advantage taken by an employee without his employer’s sanction cannot be considered as a perquisite under the head salary.
- c) Perquisite may be received from the former, present or prospective employer
- d) Member of household includes:
- Spouse (whether dependent or not)
  - Parents (whether dependent or not);
  - Children and their spouse (whether dependent or not);
  - Servants & Dependents

### \$ Specified employees [Sec. 17(1)(c)]

*Specified employee* means:

1. A director employee.

**Note:** It is immaterial -

- a) whether he is a nominee of the workers, financial institutions, etc. on the board;
- b) whether the employee is full time director or a part time; and
- c) whether he was a director throughout the tax year or not.

### Taxpoint:

- *A director-employee shall be treated as specified employee of that company only.*

*Example: If Manu is working with X Ltd. as director-employee and with Y Ltd. as employee only, she will be treated as specified employee only for X Ltd. and not for Y Ltd.*

- *Director even for a day is construed as specified employee of such company.*
- 2. An employee who has substantial interest in the employer company.  
*Substantial interest means the employee who beneficially holds 20% or more voting power in the employer company.*  
**Taxpoint:** *Such employee shall be treated as specified employee of that company only.*
- 3. An employee whose aggregate salary from all employers together exceeds ₹ 4 lakh p.a. For computing the sum of ₹ 4,00,000, following are to be excluded/deducted:
  - a) All non-monetary benefits;
  - b) Non-taxable monetary benefits;
  - c) Standard Deduction [*Discussed later in this chapter*]; and
  - d) Deduction u/s 19 in respect of Retirement benefits

**Taxpoint:**

- *Where salary is received from two or more employers, the aggregate salary from all employers shall be considered for calculation of above ceiling. And if aggregate salary exceeds ₹ 4,00,000 p.a. the employee shall be treated as specified employee of all employers.*
- *Even 'DA not forming a part of salary for retirement benefit' shall be included in salary, while determining the above limit of ₹ 4,00,000 p.a.*

**Exempted Perquisites**

The following perquisites are exempted in hands of employee:

1. **Tea or snacks:** Tea, similar non-alcoholic beverages and snacks provided during working hours.
2. **Food:** Food provided by employer in working place.
3. **Recreational facilities:** Recreational facilities extended to a group of employees.
4. **Conveyance facility:** Conveyance facility provided -
  - to employees for journey between office and residence and vice versa.
  - to the judges of High Court and Supreme Court
5. **Training:** Amount spent on training of employees including boarding & lodging expenses for such training.
6. **Services rendered outside India:** Any perquisite allowed *outside India* by the *Government* to a *citizen of India* for rendering services outside India.
7. **Contribution in some specified schemes**
  - Employer's contribution to a pension or deferred annuity scheme.
  - Employer's contribution to staff group insurance scheme.

- Annual premium paid by the employer on personal accident policy affected by him in respect of his employee.
8. **\*Loans**
- Loan given at nil or at concessional rate of interest by the employer provided the aggregate amount of loan does not exceed ₹ 2,00,000.
  - Interest free loan for medical treatment of the diseases specified in Rule 18.
9. **\*Medical facility:** A provision of medical facility at office is exempt.
10. **Periodicals and journals:** Periodicals and journals required for discharge of work.
11. **Privilege passes and privilege ticket:** Privilege passes and privilege ticket orders granted by Indian Railways to its employees
12. **Telephone, mobile phones:** Expenses for telephone, mobile phones actually incurred on behalf of employee by the employer whether by way of direct payment or reimbursement.
13. **\*Free education facility:** Free education facility to the children of employee in an institution owned or maintained by the employer provided cost of such facility does not exceed ₹ 3,000 p.m. per child.  
**Note:** Such facility is not restricted to two children as in case of Children Education allowance.
14. **Computer or Laptop:** Computer or Laptop provided whether to use at office or at home (provided ownership is not transferred to the employee).
15. **\*Movable assets:** Sale or gift of any movable asset (other than car and electronic items) to employee after being used by the employer for 10 or more years.
16. **\*Leave Travel Concession:** Leave Travel Concession (LTC) subject to few conditions. [Exemption is available only if the assessee has opted for the old tax regime]
17. **Rent-free accommodation**
- Rent-free official residence provided to a Judge of a High Court or the Supreme Court.
  - Rent-free furnished residence (including maintenance thereof) to Official of Parliament, a Union Minister or a Leader of opposition in Parliament.
18. **\*Accommodation:** Accommodation provided -
- on transfer of an employee in a hotel for a period not exceeding 15 days in aggregate.
  - in a remote area to an employee working at a mining site or an onshore exploration site or a project execution site or a dam site or a power generation site or an offshore site.
19. **Tax on non-monetary perquisite** paid by employer on behalf of employee – Sch III Table S. No. 10. Income tax paid by employer on behalf of employee on income, being *non-monetary perquisite*, is not a taxable perquisite.  
Tax paid by employer on behalf of employee on income other than non-monetary perquisite is taxable

**20. Health club, Sports club** facility

\* Discussed later in this chapter

**Valuation of Perquisites**

**Valuation of Rent-free unfurnished accommodation (RFA) [Rule 15(2)]**

Rent-free accommodation is taxable in the hands of all employees (except the Judges of High Court or Supreme Court and Official of the Parliament or Union Minister and a leader of Opposition).

Accommodation here includes fixed as well as floating structure.

Fixed Structure	A house, flat, farm house (or a part there of), accommodation in hotel, motel, service apartment, a guest house, etc.
Floating Structure	A caravan, mobile home, ship etc.

For the purpose of valuation, employees are divided into two categories:

- a. Government (Central or State) Employee;
- b. Accommodation is provided by other employer

**I) Government Employee**

Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State, the value of perquisite in respect of such accommodation is equal to the licence fee, which would have been determined by the Central or State Government in accordance with the rules framed by the Government.

**Taxpoint:** *Employees of a local authority or a foreign government are not covered under this category.*

**II) Other Employees (residual category)**

The value of perquisite is determined as per the following table:

City in which accommodation is provided	Accommodation is owned by the employer	Accommodation is not owned by the employer
Having population exceeding 40 lacs as per 2011 census	10% of salary for the period during which the employee occupied the said accommodation.	<ul style="list-style-type: none"> <li>i. Rent paid or payable by the employer; or</li> <li>ii. 10% of salary in respect of the period during which such accommodation was occupied by</li> </ul>
Having population exceeding 15 lacs but not exceeding 40 lacs as per 2011 census	7.5% of salary for the period during which the employee occupied the said accommodation.	

Any other city	5% of salary for the period during which the employee <i>occupied</i> the said accommodation.	employee during the tax year, - whichever is lower.
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**Notes**

a) **Salary for the purpose of Rent free accommodation:** Salary here means:

Basic + Dearness allowance/pay (if it forms a part of retirement benefit) + Bonus + Commission + Fees + All other taxable allowances (only taxable amount) + Any other *monetary* payment by whatever name called

**But without including:**

- Value of Perquisites;
- Employer's contribution to provident fund; and
- lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments)

**Taxpoint**

- *Salary shall be determined on due basis.*
- *Where an assessee is receiving salary from two or more employers, the aggregate salary for the period during which accommodation has been provided (by any of the employer) shall be considered.*
- *Monetary payments, which are not in the nature of perquisite, shall be considered. E.g. Leave encashment received during the continuation of service shall be included in salary for this purpose. However, if such pay leave is received at the time of retirement, then such receipt shall not be considered.*

- b) Cap on Valuation in subsequent year(s):** Where the same accommodation is continued to be provided to the same employee for more than one tax year, the aforesaid calculation shall be restricted to the amount calculated as per the following formula:

$$\text{Amount calculated for the first tax year} \times \frac{\text{CII for the tax year for which the amount is calculated}}{\text{CII for the tax year in which the accommodation was initially provided to the employee}}$$

- CII – Cost Inflation Index as notified for the purpose of sec. 72(8)(a)
- First tax year means the tax year 2023-24, or the tax year in which the accommodation was provided to the employee, whichever is later.

**Provision Illustrated**

Particulars	T. Y. 2026-27	T. Y. 2027-28
Cost Inflation Index (CII) ... (say)	396	425
Salary	₹ 20,00,000	₹ 28,00,000
Valuation of RFA, say 10% of salary [a]	₹ 2,00,000	₹ 2,80,000
Valuation after applying inflation linked capping [b]	₹ 2,00,000 As it is first tax year	₹ 2,14,646 i.e., ₹ 2,00,000 x 425 / 396
<b>Valuation to be taken [Lower of (a) and (b)]</b>	<b>₹ 2,00,000</b>	<b>₹ 2,14,646</b>

- b) Exemption of 90 days in case of allotment of two houses:** Where an employee is transferred from one place to another and he is provided with an accommodation at new place also, the value of perquisite shall be taken for only one such house having lower value for a period not exceeding 90 days. Thereafter, the values of both such houses are taxable.
- c)** Any accommodation provided to an employee working at a mining site; or an on-shore oil exploration site; or a project execution site; or a dam site; or a power generation site; or an off-shore site, which
- a. being of a temporary nature and having plinth area not exceeding 1000 sq. ft is located not less than 8 kms away from the local limits of any municipality or a cantonment board; or
  - b. is located in a remote area.
- Remote area, means any area other than an area which is located:
- i. within the local limits of; or
  - ii. within a distance, measured aerially, of 30 kilometers from the local limits of, any municipality or a cantonment board having a population of 1,00,000 or more based on the 2011 census
- d)** Where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government:

- i. the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and
- ii. the value of perquisite of such an accommodation shall be the amount calculated as per residual category (II) considering as if the accommodation is owned by the employer.

### **Illustration 2**

Mr. Chauhan has the following salary structure:

a) Basic Salary	₹ 75,000 p.m.	b) DA	₹ 3,000 p.m.
c) Education Allowance	₹ 8,000 p.m.	d) Entertainment Allowance	₹ 1,000 p.m.
e) Fees	₹ 5,000 p.a.	f) Bonus	₹ 10,000 p.a.
g) Professional tax of employee paid by employer ₹ 2,000 for the year			

- h) He has been provided a rent-free accommodation in Chennai.
- i) 60% of DA only forms part of retirement benefits
- j) He has 3 children

Compute the taxable value of accommodation in the hands of Mr. Chauhan in the following cases:

- i) The employer owns such accommodation.
- ii) The employer hires such accommodation at a monthly rent of ₹ 7,900.

Assume that he has opted for the old tax regime

### **Solution**

Taxable value of rent-free accommodation for the tax year 2026-27

Particulars	Basis of determination	Taxable Perquisite
i) Owned by employer	10% of Salary (Working)	₹ 97,260
ii) Hired by employer	10% of Salary or Actual rent paid by employer, whichever is lower	₹ 94,800

**Working:** Salary for the purpose of Rent-free accommodation:

Particulars	Details	Amount	Amount
Basic Salary			9,00,000
Bonus			10,000
Fees			5,000
<b><u>Allowances</u></b>			
Dearness allowance	₹ 36,000 x 60%	21,600	
Entertainment Allowance		12,000	
Education Allowance	₹ 96,000 – ₹ 72,000	24,000	57,600
<b>Salary for the purpose of RFA</b>			<b>9,72,600</b>

**Note:** Professional tax paid on behalf of employee is a perquisite; hence the same shall not be included in salary for the aforesaid purpose.

## Valuation of Rent-free furnished accommodation

Furnished accommodation means Accommodation + Furniture.

Value of Furnished accommodation = *Value of accommodation* + *Value of furniture*

- Valuation of Accommodation: As discussed above.
- Valuation of Furniture: As per the following table

Case	Taxable value
Furniture owned by the employer	10% of original cost of furniture
Furniture hired by the employer	Actual hire charges paid/payable by the employer

### Taxpoint

1. "Furniture" here, includes refrigerator, television, radio, air-conditioner and other household appliances, etc.
2. The above rule is applicable to Government as well as Non-Government Employees.

## Valuation of accommodation provided at concessional rent

Valuation will be made as if the rent-free accommodation is provided and the amount so computed will be reduced by the rent payable by the employee.

Value of Rent free accommodation as usual	*****
<i>Less:</i> Rent payable by employee to employer for the above facility	*****
<b>Taxable value of perquisite</b>	****

### Taxpoint

- *The above rule of valuation shall be applicable in case of the Government employee also.*
- *Accommodation shall be deemed to have been provided at a concessional rate, if the value of accommodation computed in such manner as may be prescribed, exceeds the rent recoverable from, or payable by, the assessee*

### Accommodation provided in a hotel

In this case, value of perquisite shall be minimum of the following:

- a) 24% of salary for the period such accommodation is provided; or
- b) Actual charges paid or payable to such hotel.

However, if the following conditions are satisfied then nothing is taxable -

- Such accommodation is provided for a period not exceeding in aggregate 15 days; and
- Such accommodation is provided on transfer of employee from one place to another place.

**Note:** If the employee pays any rent, the value so determined shall be reduced by the rent actually paid or payable by the employee

### Taxpoint

- Salary here has the same meaning as in the case of rent-free accommodation.
- Above rule shall be applicable whether the assessee is a Government or a Non-Government employee.
- If the facility is provided for more than 15 days, then the perquisite is exempt for first 15 days and thereafter taxable. E.g. if facility has been provided for 45 days then taxable perquisite shall be only for last 30 days.
- Hotel includes licensed accommodation in the nature of motel, service apartment or guest house.

### Valuation of perquisites in respect of Motor Car [Rule 15(3)]

Motor-car facility provided by an employer is taxable in the hands of employee on the following basis:

Car is owned / hired by	Car is Maintained by	Used by employee for	Taxable value	Who is Chargeable
Employer		Office <sup>5</sup>	Not a perquisite	Not applicable
		Personal	M <sup>1</sup> + D <sup>2</sup>	Specified Employee
		Both	₹ 5,000 or ₹ 7,000 p.m. <sup>3</sup>	
Employer	Employee	Office <sup>5</sup>	Not a perquisite	Not applicable
		Personal	D	Specified employee
		Both	₹ 2,000 / ₹ 3,000 p.m. <sup>4</sup>	
Employee	Employer	Office <sup>5</sup>	Not a perquisite	Not applicable
		Personal	M	All employee
		Both	Actual expenditure incurred by the employer as reduced by ₹ 5,000 / ₹ 7,000 p.m. <sup>3</sup> (further deduction of ₹ 3,000 p.m. for driver) or a higher deduction if prescribed conditions are satisfied <sup>5</sup>	
Employee		Any purpose	Not a perquisite	Not applicable

<sup>1</sup> M = Maintenance cost      <sup>2</sup> D = Depreciation @ 10% of actual cost of the car. However, if the car is not owned by employer then actual hire charge incurred by employer shall be considered.

<sup>3</sup> ₹ 7,000 p.m. in case of higher capacity car<sup>#</sup> and ₹ 5,000 p.m. for lower capacity car.

<sup>4</sup> ₹ 3,000 p.m. in case of higher capacity car<sup>#</sup> and ₹ 2,000 p.m. for lower capacity car.

<sup>#</sup> Higher capacity car means a car whose cubic capacity of engine exceeds 1.6 litres.

5. Conditions to be fulfilled for claiming higher deductions or establishing that the car is used for office purpose:

- The employer has maintained complete details of journey undertaken for official purpose, which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon; and
- The employer gives the certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

**Chauffeur / Driver**

If chauffeur is also provided, then salary of chauffeur is further to be added to the value of perquisite (as computed above). However, if car is used for both i.e. official and personal purpose then ₹ 3,000 p.m. (irrespective of higher or lower capacity of car) is to be taken as value of chauffeur perquisite.

**Notes**

- a) If motor car is provided at a concessional rate then charges paid by employee for such car, shall be reduced from the value of perquisite. However, where statutory value (₹ 5,000 or ₹ 7,000 and ₹ 2,000 or ₹ 3,000) is taken as taxable value of perquisite then amount charged from employee shall not be subtracted.
- b) The word “month” denotes completed month. Any part of the month shall be ignored.
- c) When more than one car is provided to the employee, otherwise than wholly and exclusively for office purpose, the value of perquisite for -
  - One car shall be taken as car is provided partly for office and partly for private purpose i.e. ₹ 5,000 or ₹ 7,000 p.m. (plus ₹ 3,000 p.m. for chauffeur, if provided); and
  - For other car(s), value shall be calculated as car(s) are provided exclusively for private purpose.
- d) Conveyance facility to the judges of High Court or Supreme Court is not taxable.
- e) Use of any vehicle provided to an employee for journey from residence to work place or vice versa is not a taxable perquisite.

**Illustration 3**

Sonam, has been provided a car (1.7 ltr.) by his employer Vikash Ltd. The cost of car to the employer was ₹ 13,50,000 and maintenance cost incurred by the employer ₹ 1,30,000 p.a. Chauffeur salary paid by the employer ₹ 13,000 p.m. Find value of perquisite for Sonam for the tax year 2026-27, if the car is used for:

- a) Office purpose.
- b) Personal purpose.
- c) Both purposes.

In case (b) and (c), employee is being charged ₹ 15,000 p.a. for such facility.

**Solution**

- a) Nil, as car is used for office purpose.
- b) Taxable value of car facility:

Particulars	Details	Amount
Depreciation of Car	10% of ₹ 13,50,000	1,35,000
Maintenance cost	Actual	1,30,000

Driver's salary	Actual	1,56,000
Total		4,21,000
Less: Amount charged from employee		15,000
<b>Taxable Perquisite</b>		<b>4,06,000</b>

- c) ₹ 7,000 p.m. for car facility + ₹ 3,000 p.m. for driver facility = ₹ 10,000 p.m.

Taxable value of perquisite ₹ 10,000 x 12 = ₹ 1,20,000.

**Note:** Whenever statutory value (₹ 5,000 or ₹ 7,000 and ₹ 2,000 or ₹ 3,000) is taken as taxable value of perquisite then amount charged from employee shall not be subtracted.

### Valuation of Perquisite in respect of other automotive conveyance

The facility provided by employer is taxable in the hands of employee on the following basis:

Owned by	Maintained by	Used for	Taxable Value of perquisite	Who is Chargeable
Employee	Employer	Office <sup>1</sup>	Nil	Not Applicable
		Both purpose	Actual expenditure incurred by the employer as reduced by ₹ 3,000 p.m. or as reduced by higher sum if prescribed conditions (see note 1) are satisfied.	

1. Conditions to be fulfilled for claiming higher deductions or establishing that the automotive conveyance is used for office purpose:

- The employer has maintained complete details of journey undertaken for official purpose, which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon; and
- The employer gives the certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

### Valuation of perquisite in respect of Free Domestic Servants [Rule 15(4)-1]

Value of perquisite is determined as under:

Servant appointed by	Taxable value of perquisite	Taxable in hands of
Employer	Actual cost to the employer is taxable as perquisite	Specified employee
Employee		All employee

#### Taxpoint

- a) If rent-free accommodation (owned by the employer) is provided with gardener then gardener's salary and maintenance cost of garden shall not be taxable. [Circular No. 122 dated 19/10/1973]

- b) Any amount charged from the employee for such facility shall be reduced from above value.
- c) Domestic servant allowance given to employee is fully taxable.
- d) Reimbursement of servant-salary by the employer shall be taxable in hands of all employee.

### Gas, electricity or water facility [Rule 15(4)-2]

It is taxable on the following basis:

Case	Taxable value of perquisite		Taxable in the hands of
	Facility is provided from own sources	Facility is provided from other agency	
Facility is in name of employee	Manufacturing cost to the employer	Prices paid to such agency	All employees
Facility is in name of employer			Specified employees

**Taxpoint:** Where the employee is paying any amount for such facility, the amount so paid by employee shall be reduced from the value determined above.

### Valuation of perquisite in respect of free education [Rule 15(4)-3]

Taxable value of perquisite is as follows:

Case	Taxable Value
Facility provided to employee	Not taxable
Facility provided to family member	
Facility provided in an institution owned by the employer	<ul style="list-style-type: none"> <li>• <i>Where cost of education exceeds ₹ 3,000 p.m. per child:</i> Cost of such education in similar institution as reduced by amount recovered from employee, shall be taxable in hands of specified employee</li> <li>• <i>Where cost of education does not exceed ₹ 3,000 p.m. per child:</i> Nothing shall be taxable</li> </ul>
Facility provided in any institution (not owned by the employer) by reason of his being in employment.	
Reimbursement of education expenditure to employee or direct payment of the fee by the employer to the school	Actual reimbursement / payment shall be fully taxable in hands of all employee

**Taxpoint**

- a) ₹ 3,000 per month per child shall be exempted without any restriction on number of children.
- b) Child includes adopted child, stepchild of the assessee, but does not include grandchild or illegitimate child.
- c) Any amount charged from the employee for such facility shall be reduced from the above value.
- d) Contribution made under an Educational Trust, created for the children of particular group of employees, is not taxable.
- e) Scholarship granted to the children's of employee is not considered as a perquisite.

### Valuation of perquisite in respect of Free Transport [Rule 15(4)-4]

The facility provided by employer is taxable in the hands of employee on the following basis:

Case	Treatment
If employer is engaged in the business of transportation of goods or passengers	Amount charged from public for such facility is taxable in the hands of <i>specified employee</i> .

#### Notes

- a) In case above facility is provided to employees of Railways & Airlines, nothing shall be chargeable to tax.
- b) Any amount charged from the employee for such facility shall be reduced from the above value.
- c) Conveyance facility provided to the employee for journey between office and residence is not taxable.

### Valuation of perquisite in respect of interest free loan or concessional rate of interest [Rule 15(5)-1]

Perquisite in respect of interest free loan or loan at concessional rate of interest to the employee or any member of his household by the employer or any person on his behalf, is not taxable if aggregate amount of loan given by the employer (or any other person on his behalf) does not exceed ₹ 2,00,000. The taxable value of such perquisite shall be determined as per the rate as on the 1st day of the relevant tax year charged by the State Bank of India in respect of loans for the same purpose advanced by it.

Step	Particulars
1	Determine maximum outstanding monthly balance (i.e., the aggregate outstanding balance for each loan as on the last day of each month)
2	Check the interest rate charged by the SBI on first day of the relevant tax year (i.e., 01-04-2026) in respect of loans for the same purpose advanced by it

3	Step 1 x Step 2
4	Interest recovered during the tax year from the assessee by his employer
5	Value of perquisite = Step 3 – Step 4 [if positive]

**Taxpoint**

- a) **Maximum outstanding monthly balance:** Interest is calculated on the maximum outstanding monthly balance. Maximum outstanding monthly balance means the aggregate outstanding balance for each loan as on the last day of each month.
- b) **Loan for medical treatment:** Nothing is taxable if loan is given for medical treatment of the employee or any member of his household *in respect of diseases specified in rule 18*. However, such exempted loan will not include the amount that has been reimbursed by an insurance company under any medical insurance scheme.
- c) **Concessional interest:** Any interest paid by the employee to the employer for such loan shall be reduced from the above computed value. If rate of interest charged by the employer is higher than the above rate, nothing is taxable as perquisite.
- d) **Amount on which interest shall be calculated:** If loan amount is more than ₹ 2,00,000, interest shall be levied on total loan amount, rather than the excess amount.

**Travelling / Touring / Holiday Home expenditure on Holiday [Rule 15(5)-2]**

Valuation of perquisite in respect of travelling, touring, holiday home or any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household is taxable in the hands of all employees as per the following table:

Case	Taxable value of perquisite
Where such facility is maintained by employer and is not available uniformly to all employee	Notional cost of such facility. In other words, value at which such facilities are offered by other agencies to the public.
Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him	The amount of expenditure so incurred for the accompanying member of his household.
Where any official tour is extended as a vacation	The value will be limited to the expenses incurred in relation to such extended period of stay or vacation.
In any other case	Amount incurred by the employer.

**Taxpoint:** Any amount charged from employee shall be reduced from the above determined value.

### Valuation of perquisite in respect of free meals [Rule 15(5)-3]

The facility provided by employer is taxable in the hands of employee on the following basis:

Case	Tax Treatment
Tea, snacks or other non-alcoholic beverages in the form of light refreshment provided during office hours (including over-time)	Nil
Free meals provided during office hours in: <ul style="list-style-type: none"> <li>• Remote area (as discussed while valuation of RFA); or</li> <li>• An offshore installation</li> </ul>	Nil
Free meals and non-alcoholic beverages provided by the employer during office hours: <ul style="list-style-type: none"> <li>• At office or business premises; or</li> <li>• Through paid vouchers which are not transferable and usable only at eating joints.</li> </ul>	<ul style="list-style-type: none"> <li>• Expenditure on free meals shall be taxable perquisite in hands of all employees.</li> <li>• However, where value in either case does not exceed ₹ 200 per meal (under new regime – Nil), then nothing shall be taxable</li> </ul>
In any other case	The actual expenditure incurred by employer as reduced by amount charged from employee for such lunch or meal shall be taxable in the hands of all employees. i.e. [Actual expenditure to employer – Amount charged from employee]

### Gift, voucher or token given by employer [Rule 15(5)-4]

The value of any gift, voucher, or token (in lieu of which any gift may be received) given to the employee (or any member of his household) on ceremonial occasion or otherwise by the employer shall be taxable in the hands of *all employees*. However, gift, voucher or token upto ₹ 15,000, *in aggregate*, during the tax year, shall not be taxable.

**Taxpoint:** No such exemption (₹ 15,000) is available on gift made in cash or convertible into money.

### Credit Card [Rule 15(5)-5]

Expenditure incurred by an employer in respect of credit card facility to employee shall be treated as under:

Case	Tax Treatment
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Where such credit card is used wholly and exclusively for office purpose and specified conditions <sup>#</sup> are satisfied.	Nil
Where expenses (including membership and annual fees) are incurred by the employee or any member of his household, which is charged to a credit card (including any add-on card) provided by the employer or otherwise, are paid or reimbursed by the employer.	<p><b><u>If directly paid by the employer</u></b> Any amount incurred by the employer as reduced by amount charged from the employee shall be taxable in the hands of <i>all employees</i></p> <p><b><u>If amount reimbursed by the employer</u></b> Any amount reimbursed by the employer shall be taxable in the hands of <i>all employees</i>.</p>

<sup>#</sup> Specified conditions to be fulfilled to claim that expenses have been incurred wholly and exclusively for office purpose:

- a. Complete details in respect of such expenditure are maintained by the employer which may, *inter-alia*, include the date of expenditure and the nature of expenditure; &
- b. The employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duty.

### Club Expenditure [Rule 15(5)-6]

Expenditure incurred by employer in respect of club facility to employee shall be treated as under:

Case	Tax Treatment
Where such expenses are incurred wholly and exclusively for office purpose and specified conditions <sup>#</sup> are satisfied.	Nil
Where health club, sports and similar facilities are provided uniformly to all employees by the employer.	Nil
Any payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by employee or any member of his household	<p><b><u>If directly paid by the employer</u></b> Any amount incurred by the employer as reduced by amount charged from the employee shall be taxable in the hands of all employees.</p> <p><b><u>If amount reimbursed by the employer</u></b></p>

	Any amount reimbursed by the employer shall be taxable in the hands of all employees. However, initial fees paid for obtaining corporate membership shall not be a taxable perquisite.
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# Specified conditions to be fulfilled to claim that expenses have been incurred wholly and exclusively for office purpose:

- a. Complete details in respect of such expenditure is maintained by the employer which may, *inter alia*, include the date of expenditure, the nature of expenditure and its *business expediency*; and
- b. The employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duty;

### Valuation of perquisite in respect of use of movable assets [Rule 15(5)-7]

If employee (or any member of his household) uses any movable asset (other than the assets for which provisions have been made) belonging to employer, then such facility is taxable in the hands of *all employees*. The value of such benefit is determined as per the following table:

If the asset is owned by the employer	10% of the original cost of such asset.
If the asset is hired by the employer	Charges paid or payable by the employer

#### Taxpoint

- a) Any sum charged from the employee shall be reduced from the value determined as above.
- b) Use of computer, laptop, etc. (as discussed earlier) is exempted perquisite.
- c) Here movable assets do not include car.

### Valuation of the perquisite in respect of movable assets sold by an employer [Rule 15(5)-8]

If the sale price is less than the written down value (calculated as per method and rate mentioned below) then the difference would be treated as perquisite and taxable in the hands of *all employees*.

Rates and methods of depreciation for different types of assets are as follow:

Types of asset	Rate of depreciation	Method of depreciation
Electronic items <sup>#</sup> /Computer	50%	Reducing balance
Motor car	20%	Reducing balance
Any other	10%	Straight line

# Electronic items here means data storage and handling devices like computer, digital diaries and printers. They do not include household appliances like washing machines, microwave ovens, mixers, etc.

Mathematically, taxable perquisite is as under:

Original cost to the employer	*****
Less: Accumulated depreciation for each completed year during which such asset is used by the employer	****
Written down value	****
Less: Amount charged from employee	***
<b>Value of Perquisite (if positive)</b>	<b>*****</b>

**Taxpoint:** No depreciation shall be charged for a part of the year.

#### Illustration 4

X Ltd. has sold the following assets to its employee, Mr. Amit. Compute taxable perquisite.

Assets	Date of purchase	Purchase value	Date of sale	Sale price
Computer	1/7/2023	2,00,000	18/8/2026	20,000
Car	1/4/2024	3,00,000	1/3/2027	50,000
Television	1/4/2021	50,000	1/4/2026	2,000
Sofa set	1/4/2011	80,000	1/7/2026	5,000

#### Solution

Computation of taxable value of perquisite in hands of Mr. Amit for the tax year 2026-27

Assets	Written down value	Sale value	Taxable perquisite
Computer	25,000 <sup>1</sup>	20,000	5,000
Car	1,92,000 <sup>2</sup>	50,000	1,42,000
Television	25,000 <sup>3</sup>	2,000	23,000
Sofa set	Nil <sup>4</sup>	5,000	Nil
<b>Taxable Perquisite</b>			<b>1,70,000</b>

#### 1. Calculation of WDV of Computer

Particulars	Amount
Purchase value	2,00,000
Less: Depreciation from 1/7/2023 to 30/6/2024 @ 50%	1,00,000
WDV as on 1/7/2024	1,00,000
Less: Depreciation from 1/7/2024 to 30/6/2025 @ 50%	50,000
WDV as on 1/7/2025	50,000
Less: Depreciation from 1/7/2025 to 30/6/2026 @ 50%	25,000
WDV as on 1/7/2026	25,000
Less: Depreciation from 1/7/2026 to 18/8/2026 (as not being a complete year)	Nil
WDV as on the date of sale	25,000

## 2. Calculation of WDV of Car

Particulars	Amount
Purchase value	3,00,000
Less: Depreciation from 1/4/2024 to 31/3/2025 @ 20%	60,000
WDV as on 1/4/2025	2,40,000
Less: Depreciation from 1/4/2025 to 31/3/2026 @ 20%	48,000
WDV as on 1/4/2026	1,92,000
Less: Depreciation from 1/4/2026 to 1/3/2027 (as not being a complete year)	Nil
WDV as on date of sale	1,92,000

## 3. Calculation of WDV of television

Particulars	Amount
Purchase value	50,000
Less: Depreciation from 1/4/2021 to 31/3/2026 @ 10%	25,000
WDV as on the date of sale	25,000

4. Depreciation on sofa set is charged @ 10% as per straight-line method. Since the asset is used for more than 10 years, hence its WDV will be Nil.

## Medical Facility [Proviso to Sec. 17(2)]

### a) Medical facility provided in India

Following medical facility provided by the employer shall be exempted:

Case	
1	Medical facility provided to the employee or his family in a hospital, clinic, dispensary or nursing home maintained by the employer.
2	Reimbursement of medical bill of the employee or his family of: <ul style="list-style-type: none"> <li>• Any hospital maintained by Government or Local Authority; or</li> <li>• Any hospital approved by the Government for its employee.</li> </ul>
3	Payment/reimbursement by employer of medical expenses incurred by an employee on himself/his family in a hospital, which is approved by the Principal Chief Commissioner or Chief Commissioner, for the prescribed diseases (like Cancer, TB, AIDS, etc. – Rule 18) Employee must attach (keep handy) with the return of income - <ul style="list-style-type: none"> <li>• a certificate from the approved hospital specifying the prescribed disease or ailment for which hospitalisation was required; and</li> <li>• a receipt for the amount paid to the hospital.</li> </ul>
4	Group medical insurance (i.e. Mediclaim) obtained by the employer for his employees.
5	Any reimbursement by employer of any insurance premium paid by the employee, for insurance of his health or the health of any member of his family.

**b) Medical facility provided outside India**

Case	Treatment
Medical Expenditure	Exempted to the extent permitted by RBI.
Cost of stay abroad (Patient + One Attendant / Care-taker)	Exempted to the extent permitted by RBI.
Cost of travel (Patient + One Attendant / Care-taker)	Exempted only when <b>gross total income</b> of the employee excluding this (cost of travel) perquisite, does not exceed ₹ 8,00,000 p.a. <i><b>Taxpoint:</b> In calculation of gross total income ceiling, taxable value of medical treatment perquisite and cost of stay perquisite shall be included.</i>

**Taxpoint**

- a) Hospital includes a dispensary, a clinic or a nursing home.
- b) For this purpose 'family' means:
  - Spouse, children of the individual; and
  - Parents, brothers, sisters of the individual, wholly or mainly dependent on him.
- c) Fixed Medical Allowance is fully taxable.
- d) The expenditure on medical treatment by the employer may be by way of payment or reimbursement.

**Insurance premium payable by employer**

As per sec. 17(1)(g), following sums payable by an employer shall be taxable perquisite *in the hands of all employees*, whether it is paid directly or through a fund (other than RPF or approved superannuation fund or deposit-linked insurance fund),

- to effect an assurance on the life of the assessee; or
- to effect a contract for an annuity

**Valuation of sweat equity shares allotted or transferred to the assessee**

Value of sweat equity shares allotted or transferred to the assessee shall be computed as under:

Particulars	Amount
The fair market value (as per Rule 15) of the specified security or sweat equity shares, as the case may be, on the <i>date on which the option is exercised by the assessee</i>	***
<i>Less:</i> The amount actually paid by, or recovered from the assessee in respect of such security or shares	***
<b>Value of perquisite</b>	***

### **Taxpoint**

- Computation of Fair Market Value [Rule 15(6)]

<b>On the date of the exercising of the option</b>	<b>FMV Shall be</b>
the share is listed on a recognised stock exchange	Average of the opening price and closing price on that date on the said stock exchange
the share is listed on more than one recognised stock exchanges	Average of the opening price and closing price on the recognised stock exchange which records the highest volume of trading in the share
there is no trading in the share on any recognized stock exchange	The closing price of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date. However, if it listed on more than one such exchange, then consider value recorded by that exchange which records the highest volume of trading in such share
the share is not listed on a recognised stock exchange / in case of any specified security other than share	As determined by a merchant banker on the specified date

- *Option* means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price.
- *Closing price* of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange, and where the stock exchange quotes both "buy" and "sell" prices, the closing price shall be the "sell" price of the last settlement.

Tax on such perquisite is required to be paid in the year of exercising of option. However, where such shares or securities are allotted by the current employer, being an eligible start-up [as referred to in sec. 140], the perquisite is taxable in the year

- after the expiry of 60 months from the end of the relevant tax year
- in which sale of such security or share are made by the assessee
- in which the assessee ceases to be the employee of the employer, whichever is earlier.

### **Leave Travel Concession [Sch III Table S.No. 8 r.w. r 278]**

**Available only under the old regime**

If an employee goes on travel (on leave) with his family and traveling cost is reimbursed by the employer, then such reimbursement is fully exempted.

### **Notes**

- 1) Journey may be performed during service or after retirement.
- 2) Employer may be present or former.
- 3) Journey must be performed to any place within India.
- 4) In case, journey was performed to various places together, then exemption is limited to the extent of cost of journey from the *place of origin to the farthest point* reached, by the *shortest route*. E.g., if you want to go Goa from Kolkata, you cannot go Manali first and then Goa.
- 5) Employee may or may not be a citizen of India.
- 6) Stay cost is not exempt.

**Exemption:** Exemption is limited to the amount *actually incurred* on the travel to the extent as under:

Journey performed	Maximum exempted fare
By Air	The amount shall not exceed the fare admissible for the class of travel to which the employee is entitled, by the shortest route to the place of destination
By Rail	Air conditioned 1 <sup>st</sup> class fare of shortest route
When the place of origin and destination is connected by rail but journey is performed by any other mode of transport	Same as above
When the place of origin and destination is not connected by rail:	
Where a recognised public transport system exists	First class or deluxe class fare, as the case may be, on such transport.
Where no recognised public transport system exists	Amount calculated at the rate of ₹ 30 per KM, for the distance of the journey by the shortest route

### **Taxpoint**

- a) No exemption can be claimed without performing journey and incurring expenses thereon.
- b) **Block-period:** Exemption is available in respect of 2 journeys performed in a block of 4 **calendar** years commencing from 1<sup>st</sup> January 2022.  
For the tax year 2026-27, the relevant block is Jan 2026 to Dec. 2029.
- c) **Carry-forward facility:** Where concession is not availed during the preceding block (whether on one occasion or both), then any one journey performed in the *first calendar year of the immediately succeeding block* will be additionally exempted (i.e. not counted in two journey limit)
- d) **Family:** Family here means -
  - Spouse and children of the individual; and

- Parents, brothers and sisters of the individual, who are wholly or mainly dependent on him.
- e) **Restriction on number of children:** Exemption can be claimed for any number of children born on or before 30/9/1998. In addition, exemption is available only for 2 surviving children born on or after 1/10/1998.  
However, children born out of multiple birth, after the first child, will be treated as one child only.
- f) **Fixed Leave travel allowance:** Fixed amount paid to employees by way of leave travel allowance shall not be exempt.
- g) Value of Leave travel concession provided to the High Court judge or the Supreme Court Judge and members of his family are completely exempt without any conditions **under both regime.**
- h) The exemption is for travel cost and does not include stay cost or other cost.

### **Other Perquisites [Rule 15(5)-9]**

The value of any other facilities, benefits, amenities, services, rights or privileges (which is not discussed earlier) provided by the employer shall be determined on the basis of cost to the employer under an arms length transaction, as reduced by the employee's contribution, if any.

## Tax Treatment of Provident Fund

Particulars	SPF	RPF	URPF	PPF
Employer's Contribution	Not taxable	Contribution to RPF / NPS / Superannuation Fund in excess of ₹ 7,50,000 p.a. shall be taxable	Not taxable	Not Applicable
Employee's Contribution	Eligible for deduction u/s 123 (old 80C) [only under the old regime]		Not eligible for deduction u/s 80C	Eligible for deduction u/s 123 [under old regime]
Interest on employer's contribution	Not Taxable	Exempted @ 9.5% p.a. Any excess interest will be taxable as salary.	Not taxable	Not Applicable
Interest on employee's contribution	Not Taxable (Subject to Note 1)	Exempted @ 9.5% p.a. Any excess interest will be taxable as salary. (Subject to Note 1)	Not Taxable	Not taxable
Lump Sum withdrawal	Exempt – Sch II (3)	Exempt – Sch II (4) (Subject to Note 3)	Note 2	Exempt

### Taxpoint

- As per Sch II Table S. No. 3 & 4, interest accrued during the tax year in the account of an employee maintained by the fund shall not be exempted to the extent it relates to the following amount:

Case	Interest not exempted
Where employer is giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 2,50,000 per year
Where employer is not giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 5,00,000 per year

### **Calculation of taxable interest relating to contribution in a provident fund or RPF, exceeding specified limit [Rule 277]**

For this purpose, separate accounts within the provident fund account shall be maintained during the tax year 2021-22 and all subsequent tax years for taxable contribution and non-taxable contribution made by a person and the interest accrued during the tax year in the taxable contribution account shall not be exempt.

### **Taxpoint**

- Non-taxable contribution account shall be the aggregate of the following:

- i. closing balance in the account as on 31-03-2021;
  - ii. any contribution made by the person in the account during the tax year 2021-22 and subsequent tax years, which is not included in the taxable contribution account; and
  - iii. interest accrued on aforesaid balances as reduced by the withdrawal, if any, from such account;
- Taxable contribution account shall be the aggregate of the following:
- i. contribution made by the person in a tax year in the account during the tax year 2021-22 and subsequent tax years, which is in excess of the threshold limit (₹ 2,50,000 / ₹ 5,00,000); and
  - ii. interest accrued on that, as reduced by the withdrawal, if any, from such account

## 2. Lump sum amount withdrawn from URPF

Particulars	Tax treatment
Accumulated employer's contribution	Fully taxable under the head Salaries
Accumulated employee's contribution	Not taxable
Accumulated interest on employer's contribution	Fully taxable under the head Salaries
Accumulated interest on employee's contribution	Fully taxable as income from other sources

## 3. Lump sum amount withdrawn from RPF

- a) Amount withdrawn from RPF is not taxable, if
    - i. Employee retires or terminates job after 5 years of continuous service; or
    - ii. Employee has resigned before completion of 5 years and joins another organization (who also maintains recognized provident fund and his fund balance with current employer is transferred to the new employer).
    - iii. The entire balance standing to the credit of the employee is transferred to his account under New Pension Scheme as referred u/s 124
    - iv. Employee retires or terminates job before 5 years of continuous service -
      - by reason of ill health; or
      - by reason of contraction or discontinuance of employer's business; or
      - any other reason beyond the control of employee.
  - b) In any other case, amount withdrawn shall be taxable as in the case of URPF. [Refer Note 2].
4. The annual accretion (like interest, dividend, etc.) during the tax year to the balance at the credit of the aforesaid fund or scheme to the extent it relates to the contribution referred earlier (i.e., ₹ 7,50,000) shall be taxable  
Such accretion shall be computed as under [Rule 16]

$$TP = (PC/2) \times R + (PC1 + TP1) \times R$$

TP	Taxable perquisite u/s 17(1)(i) for the current tax year
TP1	Aggregate of taxable perquisite under section 17(1)(i) for the tax year or years commencing on or after 01-04-22020 other than the current tax year
PC	Aggregate amount of principal contribution made by the employer in excess of ₹ 7,50,000 to the specified fund or scheme during the tax year
PC1	Aggregate amount of principal contribution made by the employer in excess of ₹ 7,50,000 to the specified fund or scheme for the tax year or years commencing on or after 01-04-2020 other than the current tax year
R	I / F(avg.)
I	Aggregate amount of income accrued during the current tax year in the specified fund or scheme account
F(avg.)	[(Aggregate amount of balance to the credit of the specified fund or scheme on the first day of the current tax year) + (Aggregate amount of balance to the credit of the specified fund or scheme on the last day of the current tax year)] / 2

However, where the aggregate amount of TP1 and PC1 exceed the aggregate amount of balance to the credit of the specified fund or scheme on the first day of the current tax year, then the excess amount shall be ignored for the purpose of computing the aggregate amount of TP1 and PC1

### **Illustration 5**

Mr. A is appointed as a CEO of XYZ Ltd. in Kolkata from 01-10-2025. His basic salary is ₹ 6,50,000 p.m. He is paid 8% as DA. He contributes 10% of his pay and DA towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized provident fund as on 01-4-2026, 31-03-2027 and 31-03-2028 is ₹ 8,83,570, ₹ 28,32,748 and ₹ 50,84,779, respectively. Compute the perquisite value chargeable to tax in the hands of Mr. A u/s 17(1)(h) and 17(1)(i) for the tax year 2026-27 and 2027-28. Prior to 01-10-2025, he was a consultant, whose professional fees were taxable under the head “Profits and gains of business or profession.

**Solution**

Computation of perquisite value taxable u/s 17(1)(h) and 17(1)(i) for tax year 2026-27

1	<u>Perquisite value taxable u/s 17(1)(h)</u>		
	Employer's contribution to recognized provident fund during the tax year 2026-27	₹ 8,42,400	
	Less: Statutory limit	₹ 7,50,000	₹ 92,400
2	<u>Perquisite value taxable u/s 17(1)(i)</u>		
	Annual accretion on perquisite taxable u/s 17(1)(h) $[(PC/2) \times R + (PC1 + TP1) \times R]$ [i.e., $(₹ 92,400 / 2) \times 0.14228 + 0]$		₹ 6,573
	PC	Employer's contribution in excess of ₹ 7.5 lakh to recognized provident fund during tax year 2026-27	₹ 92,400
	PC1	Since employer's contribution is less than ₹ 7.5 lakh to recognized provident fund in tax year 2020-21 and subsequent year	Nil
	TP1	Aggregate of taxable perquisite u/s 17(1)(i) for the tax year or years commencing on or after 01/04/2020 other than the current tax year	Nil
	R	$I/Favg$ [i.e., $2,64,378 / 18,58,159$ ]	0.14228
	I	RPF balance as on 31-03-2027 – Employee's and employer's contribution during the year – RPF balance as on 1.4.2026 [i.e., $₹ 28,32,748 - ₹ 8,42,400 - ₹ 8,42,400 - ₹ 8,83,570$ ]	₹ 2,64,378
	Favg	Balance to the credit of recognized provident fund as on 01-04-2026 + Balance to the credit of recognized provident fund as on 31-03-2027)/2 [i.e., $(₹ 8,83,570 + ₹ 28,32,748)/2$ ]	₹ 18,58,159
	<b>Value of perquisite taxable u/s 17(1)(h) and 17(1)(i)</b>		

Interest on the aggregate of following will also be chargeable to tax during tax year 2026-27:

- ₹ 1,71,200 [Employee's contribution exceeding ₹ 2,50,000 during tax year 2025-26]
- ₹ 5,92,400 [Employee's contribution exceeding ₹ 2,50,000 during tax year 2026-27]
- Interest accrued on ₹ 1,71,200 being excess employee's contribution of tax year 2025-26

Computation of perquisite value taxable u/s 17(1)(h) and 17(2)(i) for tax year 2027-28

1	<u>Perquisite value taxable u/s 17(1)(h)</u>		
	Employer's contribution to recognized provident fund during tax year 2027-28	₹ 8,42,400	
	Less: Statutory limit	₹ 7,50,000	₹ 92,400
2	<u>Perquisite value taxable u/s 17(1)(i)</u>		
	Annual accretion on perquisite taxable u/s 17(1)(h) $[(PC/2) \times R + (PC1 + TP1) \times R]$ [i.e., $(92,400/2) \times 0.14328 + (92,400 + 6,573) \times 0.14328$ ]		₹ 20,801

PC	Employer's contribution in excess of ₹ 7.5 lakh to recognized provident fund during tax year 2027-28	₹ 92,400	
PC1	Amount of employer's contribution in excess of ₹ 7,50,000 to RPF in tax year 20-21 to tax year 2026-27	₹ 92,400	
TP1	Taxable perquisite u/s 17(1)(i) from tax year 2020-21 to 2026-27	₹ 6,573	
R	$I/F_{avg}$ [i.e., $5,67,231/39,58,763$ ]	0.14328	
I	RPF balance as on 31-03-2028 – Employee's and employer's contribution during the year – RPF balance as on 1.4.2027 [i.e., ₹ 50,84,779 – ₹ 8,42,400 – ₹ 8,42,400 – ₹ 28,32,748]	₹ 5,67,231	
Favg	Balance to the credit of recognized provident fund as on 01-04-2027 + Balance to the credit of recognized provident fund as on 31-03-2028)/2 [i.e., (₹ 28,32,748 + ₹ 50,84,779)/2]	₹ 39,58,763	
<b>Value of perquisite taxable u/s 17(1)(h) and 17(1)(i)</b>			<b>₹ 1,13,201</b>

Interest on the aggregate of following will also be chargeable to tax during tax year 2027-28:

- ₹ 1,71,200 [Employee's contribution exceeding ₹ 2,50,000 during tax year 2025-26]
- ₹ 5,92,400 [Employee's contribution exceeding ₹ 2,50,000 during tax year 2026-27]
- ₹ 5,92,400 [Employee's contribution exceeding ₹ 2,50,000 during tax year 2027-28]
- Interest accrued on ₹ 1,71,200 being excess employee's contribution of tax year 2025-26
- Interest accrued on ₹ 5,92,400 being excess employee's contribution of tax year 2026-27

### Payment from Approved Superannuation Fund [Sch II Table S No. 8]

Any payment from an approved superannuation fund made -

- on the death of a beneficiary; or
  - to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or
  - by way of refund of contributions on the death of a beneficiary; or
  - by way of refund of contributions to an employee on his leaving the service (otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement) to the extent to which such payment does not exceed the contributions made prior to commencement of this Act and any interest thereon.
  - by way of transfer to the account of the employee under a pension scheme referred to in sec. 124 and notified by the Central Government
- is exempt

### Deduction from Gross Salary [Sec. 19]

## Tax on employment or professional tax [Sec. 19 Table S. No. 1]

[Available only in old tax regime]

Tax on employment, profession, trade, etc. levied by a State under Article 276 of the Constitution will be allowed as deduction on cash basis, whether paid by employee or by employer (on behalf of employee) from gross taxable salary.

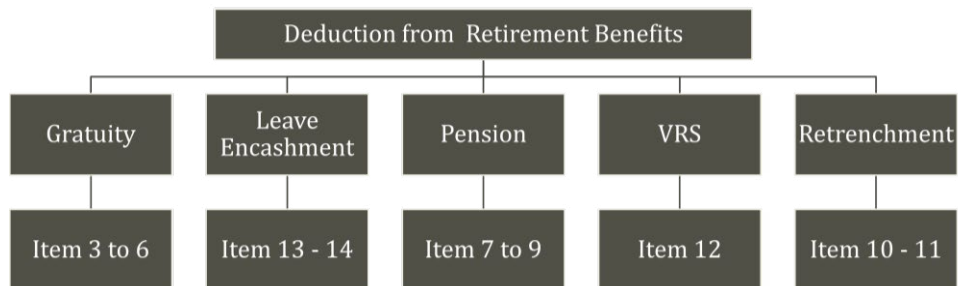
**Note:** If employer (on behalf of employee) pays Professional tax then:

- a. Firstly, it is to be included as taxable perquisite; and
- b. Further, it is allowed as deduction u/s 16(iii).

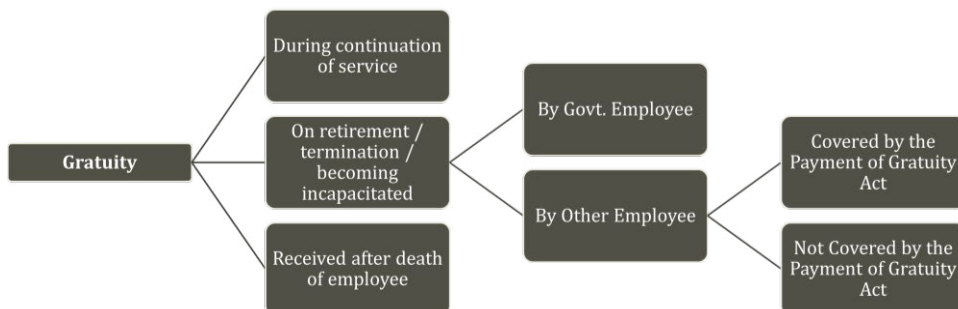
## Standard Deduction [Sec. 19 Table S. No. 2]

From gross salary, Standard Deduction is available to the following extent:

If assessee has opted for the old (or regular) tax regime	If assessee is under new tax regime
Lower of the following shall be allowed as standard deduction to all employee:	Lower of the following shall be allowed as standard deduction to all employee:
a. ₹ 50,000	a. ₹ 75,000
b. Salary	b. Salary



## Gratuity [Sec. 19(1) Table S. No. 3 to 6]



**Deduction from Gratuity are as under:**

Gratuity received	Treatment
During service tenure	Fully taxable [Sec. 16(c)]
At the time of retirement / termination / becoming incapacitated	
- <b>Government</b>	Fully deductible [Sec. 19(1) Table Item 3 & 4]
- <b>Other Employer</b>	
i) Covered by Payment of Gratuity Act	<p>Min. shall be deductible [Sec. 19(1) Table Item 5] and balance shall be taxable:</p> <ol style="list-style-type: none"> <li>Actual Gratuity received;</li> <li>₹ 20,00,000;</li> <li>15 working days<sup>3</sup> salary<sup>1</sup> for every completed year of service<sup>2</sup>  <math display="block">[\frac{15}{26} \times \text{Completed year of service} \times \text{Salary p.m.}]</math> </li> </ol> <p><b><u>Taxpoint</u></b></p> <ol style="list-style-type: none"> <li>Salary means Basic + DA (forming part of retirement benefit), last drawn In case of piece-rated employees, salary shall be calculated by applying average of last three months wages immediately preceding his termination.</li> <li>Completed year of service <u>includes</u> any fraction in excess of 6 months.</li> <li>Seven working days in case of employees of seasonal establishment</li> </ol>
ii) Not covered by Payment of Gratuity Act	<p>Min. shall be deductible [Sec. 19(1) Table Item 6] and balance shall be taxable:</p> <ol style="list-style-type: none"> <li>Actual Gratuity received;</li> <li>₹ 20,00,000 [life-time limit];</li> <li><math>\frac{1}{2} \times \text{Completed year of service}^1 \times \text{Average Salary p.m.}^2</math></li> </ol> <p><b><u>Taxpoint</u></b></p> <ol style="list-style-type: none"> <li>Completed year of service ignores any fraction of month.</li> <li>Average Salary here means, Basic + DA (forming part of retirement benefit) + Commission (as a fixed percentage on turnover) being last 10 months average salary, immediately <b><u>preceding the month of retirement.</u></b></li> <li>While claiming the statutory amount (i.e. ₹ 20,00,000) any amount earlier claimed as deduction shall be reduced from ₹ 20,00,000</li> <li>Similarly, where gratuity is received from more than one employer in the same tax year, the aggregate deduction shall not exceed statutory amount</li> </ol>
<b><u>Taxpoint</u></b>	

- The deduction is available under both tax regime.
- Assessee can claim relief u/s 157 [Old 89] on taxable portion
- **Gratuity due before the death:** If gratuity becomes due before the death of the assessee (no matter when and by whom received), it shall be taxable (excess portion after considering deduction u/s 19) in the hands of employee.
- **Gratuity due after the death:** Whereas if gratuity becomes due after the death of assessee, it shall not be taxable (even in the hands of legal heir of the assessee).

### **Illustration 6**

Ashok, an employee of ABC Ltd., receives ₹ 12,05,000 as gratuity under the Payment of Gratuity Act, 1972. He retires on 10<sup>th</sup> September, 2026 after rendering service for 35 years and 7 months. The last drawn salary was ₹ 52,700 per month. Calculate the amount of gratuity chargeable to tax.

### **Solution**

Computation of taxable gratuity of Mr. Ashok for the tax year 2026-27

Particulars	Details	Amount
Gratuity received		12,05,000
<i>Less: Minimum of the following is deductible:</i>		
a. Actual gratuity received	12,05,000	
b. Statutory Amount	20,00,000	
c. $\frac{15}{26} \times$ completed year of service $\times$ salary p.m. [ $\frac{15}{26} \times 36 \times ₹ 52,700$ ]	10,94,538	10,94,538
<b>Taxable Gratuity</b>		<b>1,10,462</b>

First, ₹ 12,05,000 shall be included in gross salary & then deduction of ₹ 10,94,538 is available u/s 19.

### **Illustration 7**

Mr. Oldman retired from his job after 29 years 6 months and 15 days of service on 17/12/2026 and received gratuity amounting ₹ 14,00,000. His salary at the time of retirement was basic ₹ 36,000 p.m., dearness allowance ₹ 11,200 p.m., House rent allowance ₹ 12,000, Commission on turnover 1%, Commission on profit ₹ 25,000. He got an increment on 1/4/2026 of ₹ 5,000 p.m. in Basic. Turnover achieved by assessee ₹ 10,00,000 p.m. Calculate his taxable gratuity if he is a

- (a) Government employee  
 (b) Non Govt employee covered by the Act (c) Non Govt employee not covered by the Act

### **Solution**

a) Government employee: Taxable amount: Nil

b) Other cases: Computation of taxable gratuity of Mr. Oldman for the tax year 2026-27

Particulars	Case (b)		Case (c)	
	Details	Amount	Details	Amount
Gratuity received		14,00,000		14,00,000
<i>Less: Min. of the following is exempted u/s 10(10)</i>				
— Actual gratuity received	14,00,000		14,00,000	
— Statutory Amount	20,00,000		20,00,000	

— $\frac{15}{26}$ x completed year of service x salary p.m. [ $\frac{15}{26}$ x 30 x 47,200]	8,16,923	8,16,923		
— $\frac{1}{2}$ x completed year of service x salary p.m. [ $\frac{1}{2}$ x 29 x 56,200]			8,14,900	8,14,900
<b>Taxable Gratuity</b>		<b>5,83,077</b>		<b>5,85,100</b>

**Workings for case (b):**

- Completed year of service is 30 years.
- Salary here means (Basic + Dearness Allowance) last drawn. i.e. (₹ 36,000 + ₹ 11,200) = ₹ 47,200

**Workings for case (c):**

- Completed year of service is 29 years.
- Salary here means Basic + Dearness Allowance + Commission on turnover, being last 10 months average just preceding the month of retirement, as shown below:

	1	2	3	4	5	6	7	8	9	10	Total
	Feb'26	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	
Basic	31,000	31,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	3,50,000
D.A.	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	1,12,000
Comm.	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	1,00,000
Total											5,62,000
<b>Average salary = ₹ 5,62,000 / 10 months</b>											<b>56,200</b>

First, ₹ 14,00,000 shall be included in gross salary and then deduction is available u/s 19.

**Leave Salary Encashment [Sec. 19(1) Table 13 & 14]**



Deductions are as under:

Cases	Treatment
During service tenure	Fully taxable [Sec. 16(h)]
At the time of retirement by employee of:	
a) Government	Fully deductible [Sec. 19(1) Table S. No. 13]
b) Other Employer	Minimum of the following shall be deductible u/s 19(1) [Table S. No. 14]
	a) Actual amount received;
	b) ₹ 25,00,000 [life-time limit]
	c) 10 months average salary <sup>1</sup>

	d) Cash equivalent of 30 days average salary for every completed year of service <sup>2</sup> as reduced by actual leave availed or encashed during the tenure of service. 30 days is the max. If employer allows for less than 30 days p.a. then lesser days shall be considered.
1. Average salary means Basic + DA (forming part of retirement benefit) + Commission (as a fixed percentage on turnover) being last 10 months average salary <b>from the date of retirement.</b>	
2. While calculating completed year of service, <u>ignore</u> any fraction of the year.	
3. While claiming the statutory amount (i.e. ₹ 25,00,000) any deduction claimed earlier as leave encashment shall be reduced from ₹ 25,00,000.	
4. The deduction is available under both tax regime.	
5. Leave salary paid to the legal heir of deceased employee is not taxable. [ <i>Circulars Letter No. F.35/1/65-IT(B), dated 5/11/1965</i> ]. Further, leave salary received by a legal heir of the Government employee who died in harness is not taxable in the hands of the recipient [ <i>Circulars No.309, dated 3/7/1981</i> ].	

### **Illustration 8**

Mr. Narayan retired from service on 1/6/2026. As on that date, his monthly salary was Basic ₹ 75,000 p.m., Commission on turnover 5%. Total turnover achieved by him during last 10 months (occurred evenly) ₹ 50,00,000. On retirement, after 20 years 3 months of service, he received gratuity ₹ 10,00,000, leave salary ₹ 6,00,000. During his tenure he has availed leave of 15 months. He is entitled to pension of ₹ 25,000 p.m. Compute his salary assuming he is covered by the Payment of Gratuity Act. He has not opted for old tax regime

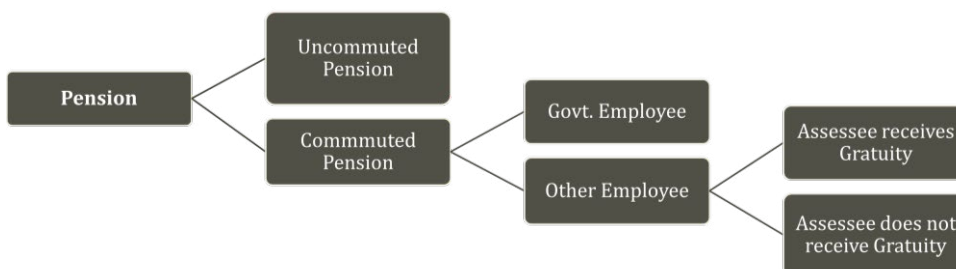
### **Solution**

Computation of taxable salary of Mr. Narayan for the tax year 2026-27

Particulars	Details	Amount	Amount
Basic Salary	75,000 x 2		1,50,000
Commission on turnover	(50,00,000/10x2) x 5%		50,000
Gratuity			10,00,000
Leave Encashment			6,00,000
Uncommuted Pension	25,000 x 10		2,50,000
<b>Gross Salary</b>			<b>20,50,000</b>
<b>Less: Deduction u/s 19</b>			
Standard Deduction		75,000	
Gratuity being lower of the following			
a) Actual Amount Received	10,00,000		
b) Statutory Amount	20,00,000		
c) $15/26 \times 20 \times ₹ 75,000$	8,65,385	8,65,385	

Leave Encashment being lower of the following			
a) Actual Amount Received	6,00,000		
b) Statutory Amount	25,00,000		
c) 10 months x ₹ 1,00,000	10,00,000		
d) $(1 \times 20 - 15) \times ₹ 1,00,000$	5,00,000	5,00,000	14,40,385
<b>Taxable Salary</b>			<b>6,09,615</b>

### Pension [Sec. 19(1) Table 7, 8 & 9]



Deduction are as under:

Cases	Treatment
Uncommuted Pension	Fully Taxable [Sec. 16(b)]
<b>Commuted Pension</b> (i.e lump sum payment) received by a	
- Government employee	Fully deductible [Table Item No. 7 & 9] [irrespective of regime deduction is available]
- Other employee	
a. If employee receives gratuity (covered or not)	1/3 <sup>rd</sup> of total value of commuted pension, which he is normally entitled, is deductible. [Table Item No. 8] [irrespective of regime deduction is available]
b. If employee does not receive gratuity	½ of total value of commuted pension, which he is normally entitled, is deductible. [Table Item No. 8] [irrespective of regime deduction is available]
<b>Taxpoint</b>	
<ul style="list-style-type: none"> <li>➤ Pension received by a widow or legal heir of a deceased employee shall not be taxable as salary but taxable as IFOS</li> <li>➤ Where commuted pension is taxable, relief u/s 157 (old 89) is available.</li> <li>➤ Pension received from UNO is not taxable.</li> </ul>	

## Retrenchment Compensation [Sec. 19(1) Table 10 & 11]

Retrenchment means cancellation of contract of service by employer.

**Deduction:** Any compensation received by a worker at the time of retrenchment is deductible to the extent of minimum of the following:

- a) Actual amount received;
- b) ₹ 5,00,000; or
- c) An amount calculated in accordance with the provisions of sec. 25F(b) of Industrial Dispute Act, 1947 [Sec. 70 of the Industrial Relations Code, 2020] (Under the said Act a workman is entitled to retrenchment compensation equivalent to 15 days' average pay, for every completed year of service or any part thereof in excess of 6 months).

**Taxpoint:** In case, where the compensation is paid under any *scheme approved by the Central Government* nothing shall be taxable.

## Compensation received at the time of VRS [Sec. 19(1) Table 12]

If an employee accepts retirement willingly in lieu of compensation then such retirement is known as Voluntary Retirement. Voluntary retirement compensation *received or receivable* by an employee is eligible for deduction subject to the following conditions -

### Conditions for exemption

1. Compensation is received from specified employer<sup>#</sup>
2. Compensation is received as per Voluntary Retirement Scheme (VRS) framed in accordance with prescribed guidelines\*

### Amount of exemption

Exemption shall be minimum of the following -

- a) Actual amount received as per guidelines; or
- b) ₹ 5,00,000.

### \*Guidelines [Rule 20]

1. Scheme (VRS) must be applicable to all employees (other than director)
2. Scheme applies to an employee who have either completed age of 40 years or has completed 10 years of service. (This condition is, however, not applicable in the case of an employee of a public sector company)
3. Such scheme must be framed to reduce the number of employees.
4. The vacancy caused by VRS is not to be filled up.
5. The retiring employee is not to be employed in another company or concern belonging to the same management.
6. The amount of compensation does not exceed
  - the amount equivalent to 3 months salary for each completed year of service; or
  - salary at the time of retirement multiplied by the balance month of service left.

**Note:** Salary here means [Basic + DA (if forms a part of retirement benefit) + fixed percentage of commission on turnover], last drawn.

**# Specified Employer**

A public sector company (under a scheme of voluntary separation); or any other company; or an authority established under a Central Act or State Act or Provincial Act; or a local authority; or a co-operative society; or a University; or an Indian Institute of Technology; or the Central or any State Government; or notified institution, having importance throughout India or in any State or States; or other notified management institute

**Taxpoint:** Voluntary retirement compensation received from the employer being an individual, firm, HUF, AOP, etc. is fully taxable in the hands of employee.

**Note:**

- The benefit is available irrespective of tax regime
- Where exemption is allowed to an assessee under this section in any tax year then no deduction is allowed in any subsequent tax years. It means deduction under this section is allowed **once in life** of an assessee.
- Where any relief has been allowed to an assessee u/s 157 in respect of voluntary retirement, no deduction shall be allowed under this section.

**Illustration 9**

Mr. Bharat of Siliguri is offered an employment by Vimal & Co. Ltd., Kolkata on a basic salary of ₹ 75,500 p.m. Other allowances are dearness allowance (not forming part of salary for retirement benefits) ₹ 40,000 p.m., medical allowance ₹ 1,000 p.m. and bonus being 1 month's basic salary. The company gives an option to him either to take a rent-free accommodation in Kolkata of the fair rental value of ₹ 25,000 p.m. or to accept a cash house rent allowance of ₹ 25,000 p.m. He decides to accept house rent allowance and takes a house in Kolkata at a monthly rent of ₹ 25,000. He has opted for the old regime

Do you think he has made a wise choice from tax advantage view? State reasons.

**Solution**

**Computation of Taxable Salary of Mr. Bharat for the tax year 2026-27**

Particulars	When he takes HRA		When he takes RFA	
	Amount	Amount	Amount	Amount
Basic		9,06,000		9,06,000
Bonus		75,500		75,500
Dearness allowance		4,80,000		4,80,000
Medical allowance		12,000		12,000
HRA	3,00,000			
Less: Minimum of the following				
a) Actual amount received	3,00,000			
b) 50% of salary	4,53,000			

c) Rent paid over 10% of salary	2,09,400	2,09,400	90,600	Nil
Rent free accommodation (being 10% of salary)			Nil	99,350
<b>Gross Taxable Salary</b>			15,64,100	15,72,850
Less: Standard Deduction			50,000	50,000
<b>Taxable Salary</b>			15,14,100	15,22,850

**Note:** Salary for the purpose:

Particulars	Accommodation	HRA
Basic salary	9,06,000	9,06,000
Medical Allowance	12,000	--
Bonus	75,500	--
<b>Total</b>	<b>9,93,500</b>	<b>9,06,000</b>

### **Comment**

The above computation indicates that if the assessee chooses rent-free accommodation, then his taxable salary increases by ₹ 8,750 (being ₹ 15,22,850 – ₹ 15,14,100), which may increase his tax bill. Hence, assessee has taken right decision.

## Taxpoint

### Meaning of Salary for different purposes

<b>For Retirement benefit</b>	
Gratuity (covered by the Payment of Gratuity Act)	(Basic + DA) last drawn
Gratuity (not covered by the Payment of Gratuity Act)	(Basic + DA <sup>1</sup> + Commission <sup>2</sup> ) being average of last 10 months preceding the month of retirement.
Leave encashment	(Basic + DA <sup>1</sup> + Commission <sup>2</sup> ) being average of last 10 months immediately from the retirement.
Voluntarily retirement	(Basic + DA <sup>1</sup> + Commission <sup>2</sup> ) last drawn
<b>For regular benefit</b>	
Rent Free Accommodation	(Basic + DA <sup>1</sup> + Commission <sup>2</sup> + Bonus + Fees + Any other taxable allowance + Any other monetary benefits excluding perquisite)
Specified employee	(Basic + DA + Commission <sup>2</sup> + Bonus + Fees + Any other taxable allowance + Any other monetary benefits – Deduction u/s 16)
<b>Any other case</b>	<b>(Basic + DA<sup>1</sup> + Commission<sup>2</sup>)</b>

<sup>1</sup> DA only if it forms a part of retirement benefit.

<sup>2</sup> Commission as a fixed percentage on turnover.

## Section Mapping

Particulars	Old Law	New Law
Salaries – Charge	15	15
Income from Salary	17(1)	16
Perquisite	17(2)	17
Profits in lieu of salary	17(3)	18
Standard Deduction	16(ia)	19(1) Table 2
Deduction for Professional Tax	16(iii)	19(1) Table 1
Deduction from Gratuity	10(10)	19(1) Table 3 to 6
Deduction from Pension	10(10A)	19(1) Table 7 to 9
Deduction from Retrenchment Compensation	10(10B)	19(1) Table 10 to 11
Deduction from VRS Compensation	10(10C)	19(1) Table 12
Deduction from Leave Encashment	10(10AA)	19(1) Table 13 to 14

## Rule Mapping

Particulars	Old Law	New Law
Valuation of Perquisite	3	15
Annual accretion referred to in sec. 17(1)(i)	3B	16
Salary income for purposes of sec. 17(1)(c)(ii) [i.e., Specified employee]	3C	17
Exemption of medical benefits from perquisite value in respect of medical treatment of prescribed diseases or ailments in hospitals approved by Chief Commissioner	3A	18
Gross total income for purposes of section 17(3)(b) [i.e., medical treatment outside India]	3D	19
Procedure for purposes of sec. 19 [Table: Sl.No.12] relating to voluntary retirement or voluntary Separation	2BA	20
Calculation of taxable interest relating to contribution in a provident fund or recognised provident fund, exceeding specified limit	9D	277
Conditions for purposes of Schedule III [Table: Sl. No. 8] [i.e., Leave Travel Concession]	2B	278
Limits for the purposes of Schedule III [Table: Sl.No. 11] i.e., HRA	2A	279
Allowances for purposes of Schedule III [Table: Sl. Nos. 12 & 13]	2BB	280

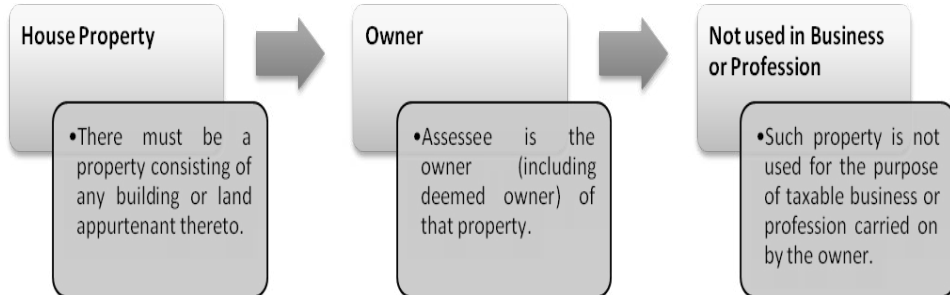
## Old Tax Regime – New Tax Regime

Particulars	Old Regime	New Regime
Govt employee, being Indian citizen working outside India	✓	✓
Children Education Allowance upto ₹ 3,000 p.m. per child for 2 child	✓	✗
Children Hostel Allowance upto ₹ 9,000 p.m. per child for 2 child	✓	✗
House Rent Allowance upto specified limit	✓	✗
Truck Driver's Allowance max upto ₹ 25,000	✓	✗
Transport Allowance upto specified limit	✓	✓
Daily Allowance upto actual expenditure	✓	✓
Conveyance Allowance upto actual expenditure	✓	✓
Travel or Tour or Transfer Allowance upto actual expenditure	✓	✓
All Other allowance specified in Rule 280 (upto specified ₹)	✓	✗
Allowances to employee of UN	✓	✓
<b>Perquisites - Exemption</b>		
Meal Voucher upto ₹ 200 per meal	✓	✗
Govt employee, being Indian citizen working outside India	✓	✓
Leave Travel Assistance for specified expenses	✓	✗
<b>Deductions</b>		
Standard Deduction	₹ 50,000	₹ 75,000
Professional Tax	✓	✗
Retirement Benefits	✓	✓

# INCOME FROM HOUSE PROPERTY

## Chargeability [Sec. 20]

Annual value<sup>1</sup> of the property shall be taxable under the head “Income from house property” subject to the following:



### Condition 1: Building or land appurtenant thereto

The term ‘house property’ is not defined in Income tax Act. However, various judicial interpretation has construed the term house property as -

- any land surrounded by wall having roof or not; and
- any land appurtenant to a building.

### Taxpoint

- a) Building includes residential as well as commercial houses.
- b) Vacant land is not a house property. Hence, income from letting of vacant land is not taxable under this head but taxed as business income or as income from other sources.
- c) If a building consists of several flats, then each flat is considered as a separate house property.
- d) An incomplete, a ruined or demolished house cannot be termed as house property.
- e) Land appurtenant to a building includes car parking area, approach roads, backyards, courtyards, etc. attached to such building.

### Condition 2: Owner

Annual value of a property is assessed to tax only in the hands of the owner even if he is not in receipt of any income. Any person other than the owner, even though he is in receipt of rent shall not be liable to tax under this head. That is why, income from sub-letting is not taxable under this head but under the head ‘Income from other sources’. E.g. Mr. X being a tenant of a house property acquired it at a monthly rent of ₹ 10,000 from Mr. Y (owner of such house property). Mr. X sublets the property to Mr. Z for a monthly rent of ₹ 12,000.

<sup>1</sup> Earning Capacity

Income from subletting being ₹ 2,000 p.m. is taxable as business income or as income from other sources.

**Fictional owner or Deemed owner [Sec. 25]**

U/s 25, in the following cases, a person shall be treated as deemed owner of the property and liable to tax (in such case legal owner shall not be further liable to tax)

1. **Transfer to spouse or minor child:** When an individual transfer a house property to -
  - his or her spouse (not being a transfer in connection with an agreement to live apart); or
  - a minor child (not being a married daughter)

- without adequate consideration, then transferor shall be treated as deemed owner of such property.

**E.g.:** Mr. X transfers his house property worth ₹ 50,00,000 to Mrs. X out of love and affection. In such case, though Mrs. X is the legal owner but Mr. X will be liable to tax as deemed owner of such property.

**Taxpoint:** In case of transfer to spouse, marriage should subsist on both the days i.e., on the day of transfer as well as on the day when income arises.

Transferred property must be a house property. E.g. Mr. X transfers cash of ₹ 50,00,000 to Mrs. X and Mrs. X purchases a house property from such cash, then such transfer of cash and subsequent purchase of property shall not attract provision of sec. 25. However, the income from such property shall be clubbed in the hands of Mr. X as per the provision of sec. 99.

2. **The holder of an impartible estate:** The holder of an impartible estate is treated as deemed owner of house property.
3. **Property held by a member of a company, society or any other association:** Property held by a member of a company, co-operative society or other association of persons to whom a building or a part thereof is allotted or leased under House Building Scheme of the company or association, is treated as deemed owner of that building or a part thereof.
4. **A person who acquired a property u/s 53A of the Transfer of Property Act:** A person who is allowed to take or retain possession of any building (or part thereof) in part performance of a contract u/s 53A of the Transfer of Property Act, 1882, is deemed as the owner of that building (or part thereof).
5. **Lessee of a building:** A person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in (or with respect to) any building or its part:



- i. by virtue of transfer of such property by way of sale or exchange or original or extendible lease for a term of not less than 12 years; or
- ii. accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease which has the effect of enabling the enjoyment of such property.

***Condition 3: Property is not used for business or profession carried on by the assessee***

When a person carries on business or profession in his own house property, annual value thereof is not taxable u/s 20 provided *income of such business is chargeable to tax.*

**Computation of Income**

Computation of Income from house property of ..... for the tax year .....

Particulars	Details	Amount
Gross Annual Value (GAV)		****
Less: Municipal tax		****
Net Annual Value (NAV)		****
Less: <u>Deductions u/s 22</u>		
(a) Standard deduction [30% of NAV]	****	
(b) Interest on borrowed capital	****	****
<b>Income from House Property</b>		****

**Gross Annual Value (GAV) [Sec. 21]**

Normally, income tax is charged on income, but under the head ‘Income from house property’, tax is not charged on the rent earned from house property but on the inherent earning capacity of the house property. Such earning capacity is termed as *Annual Value*.

### ***Computation of Gross Annual Value (GAV)***

**Step 1:** Calculate reasonable expected rent (RER) of the property being higher of the following:

- a) Gross Municipal Value.
- b) Fair Rent of the property.

**Note:** RER cannot exceed Standard Rent.

\* Reasonable Expected Rent (RER) is also known as Annual Letting Value (ALV).

**Step 2:** Calculate Actual Rent Received or Receivable (ARR) for the year *less* current year unrealised rent (UR) subject to certain conditions<sup>#</sup>.

**#Unrealised Rent [Rule 21]:** Unrealised Rent of current year shall be deducted in full from Actual Rent Receivable, provided the following conditions are satisfied:

- i) The tenancy is bona fide;
- ii) The tenant has vacated the property or steps have been taken to compel eviction;
- iii) The defaulting tenant occupies no other property of the assessee;
- iv) Assessee has instituted legal proceedings or proved them worthless to the Assessing Officer.

**Step 3:** Compare the values calculated in step 1 and step 2 and take the higher one.

**Step 4:** Determine loss due to vacancy

**Step 5:** Income from House Property = Step 3 – Step 4

In nutshell, GAV shall be computed as under

Steps	Particulars	Amount
1 <sup>st</sup>	<u>Compute Reasonable Expected Rent [RER]</u>	
	Gross Municipal Value (a)	****
	Fair Rent (b)	****
	Higher of the (a) and (b) [A]	****
	Standard Rent [B]	****
	Reasonable Expected Rent [Lower of (A and B)] [C]	****
2 <sup>nd</sup>	Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year (UR) [D]	****
3 <sup>rd</sup>	Higher of C and D	****
4 <sup>th</sup>	Less: Loss due to Vacancy (if property is actually let out for a part of the year) [ARR / 12 X Vacancy period]	***
5 <sup>th</sup>	<b>Gross Annual Value</b>	****

**Illustration 1**

Find out the gross annual value in case of the following properties let out throughout the tax year 2026-27 (₹ in '000)

Particulars	H1	H2	H3	H4	H5
Municipal annual value	90	500	30	100	315
Fair rent	300	300	300	300	300
Standard rent under the Rent Control Act	50	800	240	250	500
Actual rent receivable p.a.	120	600	180	360	150
Unrealised rent for the tax year 2026-27 (in terms of months)	2	3	1	3	2

**Solution**

Computation of gross annual value (₹ in '000)

Step	Particulars	H1	H2	H3	H4	H5
1 <sup>st</sup>	<u>Calculation of RER</u>					
	Gross Municipal Value	90	500	30	100	315
	Fair Rent	300	300	300	300	300
	Higher of the above [A]	300	500	300	300	315
	Standard Rent [B]	50	800	240	250	500
	Reasonable Expected Rent [lower of A and B] [C]	50	500	240	250	315
2 <sup>nd</sup>	<u>Calculation of (ARR – Unrealised Rent)</u>					
	Actual rent receivable p.a.	120	600	180	360	150
	Unrealised rent	20	150	15	90	25
	ARR – Unrealised Rent [D]	100	450	165	270	125
3 <sup>rd</sup>	<b>Gross Annual Value (being higher of [C] and [D])</b>	<b>100</b>	<b>500</b>	<b>240</b>	<b>270</b>	<b>315</b>

Assume, conditions prescribed under Rule 21 being satisfied.

**Illustration 2**

Find out the Gross annual value in case of the following properties (₹ in 000)

Particulars	H1	H2	H3	H4	H5	H6
Gross Municipal Value p.a.	200	300	400	500	300	300
Fair rent p.a.	300	600	750	180	200	400
Standard rent under the Rent Control Act p.a.	300	180	280	225	240	240
Actual rent p.a.	600	900	300	240	216	240
Property remains vacant (in number of month)	1	3	2	1	2	1

**Solution**

Computation of Gross Annual Value (₹ in '000)

Step	Particulars	Working	H1	H2	H3	H4	H5	H6
1 <sup>st</sup>	Calculation of RER	Higher of GMV and FR (RER cannot exceed SR)	300	180	280	225	240	240
2 <sup>nd</sup>	ARR	ARR for the year – UR	600	900	300	240	216	240
3 <sup>rd</sup>	Higher of above	Higher of Step 1 & Step 2	600	900	300	240	240	240
4 <sup>th</sup>	Loss due to vacancy	(ARR for the year /12) x Vacancy Period	50	225	50	20	40	20
	<b>Gross Annual Value [Step 3 – Step 4]</b>		<b>550</b>	<b>675</b>	<b>250</b>	<b>220</b>	<b>200</b>	<b>220</b>

### Illustration 3

Find out the gross annual value for the tax year 2026-27

(₹ in '000)

Particulars	H1	H2	H3
Gross Municipal value	150	180	120
Fair rent	140	140	240
Standard rent	120	240	300
Actual rent if property is let out throughout the tax year 2026-27	180	300	150
Unrealised rent of the tax year 2026-27	25	40	20
Unrealised rent of the year prior to the tax year 2026-27	30	50	60
Period when the property remains vacant (in number of months)	3	1	-

### Solution

Computation of Gross Annual Value

(₹ in '000)

Step	Particulars	Working	H1	H2	H3
1 <sup>st</sup>	Calculation of RER	Higher of GMV and FR (RER cannot exceed SR)	120	180	240
2 <sup>nd</sup>	ARR <i>less</i> current year unrealized rent		155	260	130
3 <sup>rd</sup>	Higher of above	Higher of Step 1 & Step 2	155	260	240
4 <sup>th</sup>	Loss due to vacancy	(ARR for the year /12) x Vacancy Period	45	25	-
	<b>Gross Annual Value [Step 3 – Step 4]</b>		<b>110</b>	<b>235</b>	<b>240</b>

## Taxes levied by local authority (Municipal Tax) [Sec. 21(3)]

Tax levied by the municipality or local authority is deductible from Gross Annual Value (GAV). Municipal tax includes service tax like fire tax, water tax, etc. levied by a local authority. Such taxes shall be allowed as deduction subject to the following conditions:

1. It should be actually paid during the previous year.
2. It must be paid by the assessee.

### Taxpoint:

➤ Unpaid municipal tax or municipal tax paid by tenant shall not be allowed as deduction.

- If property is situated in a foreign country, tax paid to foreign local authority shall be allowed as deduction
- In case municipal tax paid includes tax paid for several past years and the total amount of tax so paid by the owner exceeds GAV, then Net Annual Value (NAV) can be negative.

After reducing municipal taxes from gross annual value, we got the net annual value

## Deductions u/s 22

The list of deduction u/s 22 is exhaustive i.e., no deduction can be claimed in respect of expenditures which are not specified under this section e.g., no deduction is allowed for repairs, collection charges, insurance, ground rent, land revenue, etc.

### 1. Standard deduction u/s 22(a)

30% of the net annual value is allowed as standard deduction in respect of all expenditures (other than interest on borrowed capital) *irrespective of the actual expenditure incurred.*

**Taxpoint:** Where NAV is negative or zero, standard deduction is not available.

### 2. Interest on loan or borrowed capital u/s 22(b) & (c)

Interest payable on amount borrowed for the purpose of *purchase, construction, renovation, repairing, extension, renewal or reconstruction* of house property can be claimed as deduction *on accrual basis.*

For the purpose of calculation, interest on loan is divided into two parts:

- Pre-construction period Interest
- Post-construction period Interest

#### **Pre-Construction Period**

The pre-construction period represents the time frame during which the property is being built.

**Timeframe Calculation:** The period begins either on the date the loan was borrowed or the date the construction commenced, whichever is later. It concludes on the 31st of March immediately preceding the financial year in which the construction is completed.

#### **Starts From:**

- a. Date of commencement of construction; or
  - b. Date of borrowing,
- whichever is later,

**Ends on:** March 31 immediately prior to the year of completion of construction

**Tax Treatment:** The interest accrued during this period is required to be aggregated. The accumulated amount is allowed as a deduction in 5 equal annual installments. This

five-year amortization schedule commences from the tax year in which the construction of the property is completed.

This interest has been considered only if it has not already been allowed as a deduction under any other provision of the Act.

#### Example

- Date of Loan Borrowed: June 1, 2024
- Date of Commencement of Construction: August 15, 2024
- Date of Completion of Construction: October 10, 2026 (This falls in the tax year 2026-27)

In this, pre-construction period runs from August 15, 2024 to March 31, 2026.

Interest accrued during this period will be aggregated and then claimed as a deduction in 5 equal installments starting from tax year 2026-27 (the year construction was completed). The interest from April 1, 2026, onwards will be treated as normal post-construction (current year) interest.

#### Post-Construction Period

The post-construction phase (also known as current year interest) represents the ongoing interest accumulation once the property is complete and viable.

**Timeframe Calculation:** This period starts from the first day of the tax year in which the construction is completed and continues until the entire loan is repaid.

**Tax Treatment:** The interest pertaining to the post-construction period is claimed as a deduction in the respective tax year. The deduction is allowed on an accrual basis. This means the taxpayer is eligible to claim the deduction based on the interest that has fallen due for that specific year, regardless of whether the actual cash payment was made to the financial institution.

In nutshell, tax treatment is as under:

Particulars	Pre-construction period	Post-construction period
Starts from	The day of commencement of construction or the day of borrowing, whichever is later	The first day of the previous year in which construction is completed
Ends on	March 31 immediately prior to the year of completion of construction	When loan is fully paid
Tax treatment	The interest incurred during aforesaid period shall be accumulated and allowed as deduction in 5 equal	The interest expenses for the year (on accrual basis) shall be allowed as deduction in the respective year.

	installments from the year of completion of construction.	
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**Taxpoint**

- a) Interest paid on fresh loan, which is taken to repay the original loan (being taken for above-mentioned purpose) shall be allowed as deduction.
- b) Interest on new loan, taken for paying outstanding interest on old loan, is not deductible
- c) Amount paid as brokerage or commission, for arrangement of the loan, is not deductible.
- d) Interest on loan taken for payment of municipal tax, etc. is not allowed as deduction.
- e) Unpaid purchase price shall also be considered as borrowed capital, thus, any interest paid on it is available as deduction.

**Amount not deductible from Income from house property [Sec. 22(B)]**

Any interest chargeable under this Act which is payable outside India, is not allowed as deduction if:

- on such interest, tax has not been deducted at source and paid as per the provision of chapter XIX-B; and
- in respect of such interest there is no person in India who may be treated as an agent u/s 306.

**Illustration 4**

Following information are provided by an assessee for his house properties for computing interest on loan allowed u/s 22:

Particulars	HP1	HP2	HP3	HP4	HP5
a) Interest on loan taken for repair of H.P.	20,000	30,000	10,000	15,000	25,000
b) Interest on loan taken for purchasing H.P. (50% paid)	20,000	25,000	30,000	17,000	18,000
c) Interest on new loan taken for repaying old loan which was taken for purchasing H.P.	10,000	12,000	13,000	14,000	16,000
d) Interest on loan taken for payment of interest on earlier loan	10,000	10,000	10,000	10,000	10,000
e) Interest on loan for payment of Municipal tax	2,000	2,000	2,000	2,000	2,000
f) Interest on loan by mortgaging HP3 for business purpose	--	--	5,000	--	--

<b>g)</b> Interest on loan for reconstruction of HP1 paid outside India without deducting tax at source & lender does not have any agent	20,000	--	--	--	--
<b>h)</b> Interest on loan for reconstruction of HP2 payable outside India on which TDS has not been deducted and no payment yet been made	--	20,000	--	--	--
<b>i)</b> Interest on loan on mortgage of HP1 for renovation of HP2	10,000	--	--	--	--

**Solution**

Calculation of 'Interest on loan' allowed u/s 22

(₹ in '000)

Particulars	Note	HP1	HP2	HP3	HP4	HP5
<b>a)</b> Interest on loan taken for repair of H.P.	Allowed	20	30	10	15	25
<b>b)</b> Interest on loan taken for purchasing H.P.	1	20	25	30	17	18
<b>c)</b> Interest on new loan taken for repaying old loan which was taken for purchasing H.P.	Allowed	10	12	13	14	16
<b>d)</b> Interest on loan taken for payment of interest on earlier loan	Not Allowed	-	-	-	-	-
<b>e)</b> Interest on loan for payment of Municipal tax	Not Allowed	-	-	-	-	-
<b>f)</b> Interest on loan by mortgaging HP3 for business purpose	2	-	-	-	-	-
<b>g)</b> Interest on loan for reconstruction of HP1 paid outside India without deducting tax at source	3	-	-	-	-	-
<b>h)</b> Interest on loan for reconstruction of HP2 payable outside India on which TDS has not been deducted, and no payment yet made.	4	-	-	-	-	-
<b>i)</b> Interest on loan on mortgage of HP1 for renovation of HP2	5	-	10	-	-	-
<b>Interest on loan allowed u/s 24(b)</b>		<b>50</b>	<b>77</b>	<b>53</b>	<b>46</b>	<b>59</b>

**Notes**

- Interest on loan is allowed on accrual basis.
- The purpose of loan must be repair, renovation, construction or purchase of property.
- Any payment outside India without deduction of tax at source and when the payee has no agent in India is not allowed as deduction.
- Interest payable outside India without TDS whether paid or unpaid is not allowed as deduction. It is assumed that the payee has no agent in India.

5. Since loan is utilised for renovation of HP2 hence deduction shall be allowed from income of HP2. Mortgage of HP1 is irrelevant.

### **Illustration 5**

Calculate interest on loan allowed for tax year 2025-26 to 2031-32 from the following information:

Loan was taken on 1/1/2022 ₹ 5,00,000 @ 12% p.a.

Construction commenced on 1/8/2022. Construction completed on 31/3/2027. Repayment made as under:

<u>On 1/4/2023</u>	<u>On 1/4/2026</u>	<u>On 1/4/2029</u>	<u>On 1/7/2030</u>
₹ 1,00,000	₹ 1,00,000	₹ 1,00,000	₹ 1,00,000

### **Solution**

Since construction started on 1/8/2022, hence pre-construction period starts from 1/8/2022 and since construction was completed on 31/3/2027, hence pre construction period ends on 31/3/2026 and post construction period starts from the year 2026-27.

Pre-construction period interest are as under:

Tax Year	Amount	Month	Interest @ 12%
2022-23	5,00,000	8	40,000
2023-24	4,00,000	12	48,000
2024-25	4,00,000	12	48,000
2025-26	4,00,000	12	48,000
<b>Total interest for pre-construction period</b>			<b>1,84,000</b>

Total interest for pre-construction period is ₹ 1,84,000 which shall be allowed in 5 equal installments i.e., ₹ 36,800 p.a. from tax year 2026-27 to 2030-31.

Computation of interest

Tax Year	Pre-construction period Interest	Post-construction period Interest	Total Interest
2025-26	--	--	--
2026-27	36,800	36,000	72,800
2027-28	36,800	36,000	72,800
2028-29	36,800	36,000	72,800
2029-30	36,800	24,000	60,800
2030-31	36,800	15,000	51,800
2031-32	--	12,000	12,000

## **Self-occupied property / Unoccupied Property [Sec. 21(6)]**

A house property shall be termed as self occupied property by an individual or HUF, where such property or part thereof:

- is in the occupation of the owner for the purposes of his own residence;
- is not actually let out during the whole or any part of the previous year; and
- no other benefit there from is derived by the owner.

Where an assessee has a residential house (kept for self-occupation) and it cannot actually be occupied by the owner due to any reason, such house shall be termed as unoccupied property. Such house property shall be treated as self-occupied.

**Treatment:** The annual value of such house or part of the house shall be taken to be *nil*.

If an assessee occupies more than **two** house properties as self-occupied, he is allowed to treat only **two** houses as self-occupied *at his option*. The remaining self-occupied house property(ies) shall be treated as ‘Deemed to be let out’.

**Taxpoint:** In the light of the above provision –

Combination	Treated as
Fully self occupied	Self occupied property
Partly self occupied & partly vacant	Self occupied property
Partly self occupied & partly let out	Not considered as self occupied
Partly self occupied & partly use for business purpose	Self occupied to the extent used for self occupation

**Note:**

<b>Available to</b>	Benefit u/s 21(6) can be claimed by an Individual and HUF. The benefit is not available to other assessee like company, firm, etc.
<b>When owner want to change his option</b>	It is not necessary that once a house property is treated as self-occupied it shall be continuously treated as self-occupied. Such option may be changed every year without any permission.
<b>When owner occupies a house in some other capacity</b>	When the assessee occupies his house but not in the capacity of owner then benefit under this section cannot be claimed. <i>E.g.</i> Owner let out the house to his employer & gets back the property as rent free accommodation. In such case, though the owner himself occupies the property but as an employee of the tenant & not as an owner. In such case, property shall be treated as let-out & not self-occupied
<b>When more than one house</b>	If an assessee has a house property, which consist of two or more residential units & all such units are self-occupied used in a <i>combined form</i> , the annual value of the entire house shall be taken as

<b>property used in a combined form</b>	<i>nil</i> as there is only one property, though it has more than one residential unit.
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**Computation of taxable income of self-occupied property**

Net annual value of self-occupied property shall be taken as *nil*. As a consequence, deduction u/s 22(a) (standard deduction) shall also be *nil*. Interest on loan u/s 22(b) & (c) shall be allowed if assessee has opted for the old tax regime, subject to certain ceiling.

*Computation at a glance*

Particulars	Amount
Net Annual Value	Nil
<i>Less: Interest on borrowed capital u/s 22(b) &amp; (c) [Available only if assessee has opted for the old tax regime]</i>	***
<b>Income from house property</b>	(***)
Standard deduction u/s 22(a) is not available	

**Net Annual value**

Net Annual value of **two** self-occupied house properties, at the choice of the assessee, is taken as *nil*. He can choose those house properties as self-occupied through which tax liability can be reduced.

Normally (but not always) house property with higher gross annual value is treated as self-occupied property but it is advised to calculate total income under the head 'Income from house property' by applying each option separately and then choose the option which reduces total income.

**Interest on loan u/s 22(b) & (c) [Available only if assessee has opted for the old tax regime]**

Interest on loan taken for construction, acquisition, repair, renovation or extension is allowed according to the following table:

Conditions	Maximum Interest allowed in aggregate
1. Loan is utilized for <i>construction or acquisition</i> of house property;	₹ 2,00,000

2. Such construction or acquisition is completed within 5 years from the end of the financial year in which the capital was borrowed; and	
3. The assessee furnishes a certificate <sup>2</sup> from the person to whom interest is payable on such capital	
In any other case	₹ 30,000
<b><i>Taxpoint:</i></b> In any case, deduction in respect of interest on loan on self-occupied properties cannot exceed ₹ 2,00,000 in a year.	

### **Taxpoint**

- a) The limit is inclusive of installment of interest relating to pre-construction period.
- b) Calculation and deduction of interest for the period of pre and post-construction, acquisition, etc. is same as discussed in the case of let out house property.
- c) Assessee shall always have *nil* income or loss upto ₹ 2,00,000 from properties u/s 21(6).

In nutshell, treatment of interest on loan is as under:

Nature of property	Purpose of loan	Allowable (Maximum limit) <sup>2,3</sup>
Self-occupied	Construction or purchase of house property <sup>1</sup>	₹ 2,00,000
Self-occupied	For Repairs of house property	₹ 30,000
Let-out	Construction or purchase of house property	No maximum limit

1. Subject to other two other conditions. If other two conditions are not fulfilled, then maximum limit is restricted to ₹ 30,000.
2. Including interest for pre-construction period.
3. Aggregate limit for all house properties treated as self-occupied.

### **Deemed to be let-out house property [Sec. 23(4)]**

Where the assessee occupies more than two house properties as self-occupied, then for any two of them, benefit u/s 21(6) can be claimed (at the choice of the assessee) and remaining property or properties shall be treated as 'deemed to be let out'.

#### **Treatment:**

<sup>2</sup> The lender certificate shall specify:

- a. the amount of interest payable on capital borrowed; and
- b. the interest payable on any new loan, where subsequent to the capital borrowed, the assessee has taken any such loan for repayment of whole or any part of such capital.

- Gross Annual value:** Since assessee does not let out such property & do not receive rent, therefore GAV will be determined from Step 1 only. Step 2, 3 & 4 of calculation GAV are irrelevant.

*Taxpoint: GAV of deemed to be let out property will be the 'Reasonable expected rent (RER)' of the property.*

- Municipal taxes** and deduction u/s 22(a) and 22(b) & (c) shall be available as in the case of let out house property.

### Illustration 6

Compute income under the head 'Income from house property' of Sri from the following information:

Particulars	H1	H2	H3	H4
Used for	Self occupied	Self occupied	Self occupied	Own Business
Situated at	<u>Mumbai</u>	<u>Abu</u>	<u>Kolkata</u>	<u>Hyderabad</u>
Gross Municipal Value	3,00,000	2,00,000	7,00,000	3,00,000
Fair Rent	2,00,000	2,00,000	6,00,000	1,20,000
Standard Rent	3,00,000	2,40,000	7,00,000	2,00,000
Municipal Tax	15%	15%	15%	15%
Repairs	13,000	4,000	8,000	8,000
Ground Rent	20,000	Nil	Nil	6,000
Land Revenue	Nil	10,000	Nil	Nil
Interest on Loan	40,000	1,00,000	2,10,000	20,000

Further, how shall your answer differ if he has opted for the old regime.

### Solution

In the given case, there are three options:

Option 1: Take H1 & H3 as Self-Occupied (S/O) and H2 as Deemed to be Let-Out (DLO)

Option 2: Take H1 as Deemed to be Let-Out (DLO) and H2 & H3 as Self-Occupied (S/O)

Option 3: Take H3 as Deemed to be Let-Out (DLO) and H1 & H2 as Self-Occupied (S/O)

### Under new tax regime u/s 202(1)

Total income under the head house property shall be computed applying each option separately and then the option, which yields least income under this head, shall be opted.

Particulars	Option1		Option2		Option 3	
	H1 & H3 S/O	H2 DLO	H1 DLO	H2 & H3 S/O	H3 DLO	H1 & H2 S/O
Gross Annual Value	Nil	2,00,000	3,00,000	Nil	7,00,000	Nil
Less: Municipal Tax (15% of Municipal value)	Nil	30,000	45,000	Nil	1,05,000	Nil
Net Annual Value (A)	Nil	1,70,000	2,55,000	Nil	5,95,000	Nil
Less: Deduction u/s						
22(a) Standard deduction (30% of NAV)	Nil	51,000	76,500	Nil	1,78,500	Nil
22(b) Interest on loan	NA	1,00,000	40,000	NA	2,10,000	NA

Total deduction (B)	Nil	1,51,000	1,16,500	Nil	3,88,500	Nil
Income from house property [(A) – (B)]	Nil	19,000	1,38,500	Nil	2,06,500	Nil
<b>Income from house property</b>	<b>19,000</b>		<b>1,38,500</b>		<b>2,06,500</b>	

Total income under the head Income from house property as per option 1 is ₹ 19,000

### **If he opts out of new tax regime**

Total income under the head house property shall be computed applying each option separately and then the option, which yields least income under this head, shall be opted.

Particulars	Option1		Option2		Option 3	
	H1 & H3 S/O	H2 DLO	H1 DLO	H2 & H3 S/O	H3 DLO	H1 & H2 S/O
Gross Annual Value	Nil	2,00,000	3,00,000	Nil	7,00,000	Nil
Less: Municipal Tax (15% of Municipal value)	Nil	30,000	45,000	Nil	1,05,000	Nil
Net Annual Value (A)	Nil	1,70,000	2,55,000	Nil	5,95,000	Nil
Less: Deduction u/s						
22(a) Standard deduction (30% of NAV)	Nil	51,000	76,500	Nil	1,78,500	Nil
22(b) Interest on loan	2,00,000 <sup>2</sup>	1,00,000	40,000	2,00,000 <sup>2</sup>	2,10,000	1,40,000
Total deduction (B)	2,00,000	1,51,000	1,16,500	2,00,000	3,88,500	1,40,000
Income from house property [(A) – (B)]	(2,00,000)	19,000	1,38,500	(2,00,000)	2,06,500	(1,40,000)
<b>Income from house property</b>	<b>(-) 1,81,000</b>		<b>(-) 61,500</b>		<b>66,500</b>	

**Notes:** Since H4 is used for own business purpose so it is not taxable under this head.

Total income under the head Income from house property as per option 1 is (-) ₹ 1,81,000

## **Partly self-occupied and partly let-out**

Where a house or part of the house, which is self-occupied, is let out during any part of the previous year, such property is termed as 'Partly self-occupied and partly let out'. Further, such division may be made in the following ways:

**1) Area wise division**

**2) Time wise division**

**3) Area as well as Time wise division**

**Case 1) Area wise Division**

In this case, a house property consists of two or more independent units and one or more of which are self-occupied and remaining units are let out.

**Treatment**

- Self-occupied portion & let out portion shall be treated as two separate houses (i.e. Unit A & Unit B);
- Common value like municipal value, fair rent, standard rent, municipal tax and interest shall be proportionately divided;
- Income of both units shall be computed separately.

**Case 2) Time wise division**

In such case, the house property is self occupied by the assessee for a part of the year and let out for remaining part of the year.

**Treatment**

In such case, assessee will not get deduction for the self-occupied period and income will be computed as if the property is let out throughout the year. In this regard, it is to be noted that the reasonable expected rent (RER) shall be taken for the full year but the actual rent receivable (ARR) shall be taken only for the let-out period.

**Illustration 7**

Mr. Rana used his house property for self-occupation till 1/8/2026 and let out the same for remaining period for rent of ₹ 6,000 p.m. Compute his income from house property from the following details: Municipal value ₹ 1,00,000, Fair Rent ₹ 80,000, Standard Rent ₹ 96,000, Municipal tax 16%, Interest on loan ₹ 10,000 [Assume that he has opted for the old regime]

**Solution**

Computation of income from house property of Mr. Rana for the tax year 2026-27

Particulars	Working	Details	Amount
Municipal Value		1,00,000	
Fair Rent		80,000	
Standard Rent		96,000	
Reasonable Expected Rent	Higher of MV & FR (RER cannot exceed SR)	96,000	
Actual Rent Receivable	₹ 6,000 * 8	48,000	
Gross Annual Value	Higher of RER and ARR		96,000
Less: Municipal Tax	16% of Municipal Value		16,000
Net Annual Value			80,000
Less: <u>Deduction u/s</u>			
24(a) Standard deduction	30% of NAV	24,000	
24(b) Interest on loan		10,000	34,000
<b>Income from house property</b>			<b>46,000</b>

### Case 3) Area as well as Time wise Division

Merger of Case 1 and Case 2

#### Illustration 8

Mr. Ajnabi has a house property in Cochin. The house property has two equal dimension residential units. Unit 1 is self occupied throughout the year and unit 2 is let out for 9 months for ₹ 10,000 p.m. and for remaining 3 months it was self-occupied. Compute his taxable income from the following details, assume that he has opted for the old tax regime:

Municipal value ₹ 2,00,000, Fair Rent ₹ 1,60,000, Standard rent ₹ 3,00,000, Municipal tax 10% (60% paid by assessee), Interest on loan ₹ 40,000, Expenditure on repairs ₹ 20,000.

#### Solution

##### Working

##### 1. Computation of Gross Annual Value (GAV)

Particulars	Working	Unit 1	Unit 2
Municipal Value	1:1	1,00,000	1,00,000
Fair Rent	1:1	80,000	80,000
Standard Rent	1:1	1,50,000	1,50,000
Reasonable Expected Rent	Higher of MV & FR (RER cannot exceed SR)	Nil	1,00,000
Actual Rent Receivable	₹ 10,000 * 9	--	90,000
Gross Annual Value	Higher of Step 1 & 2	Nil	1,00,000

2. Municipal tax = 10% of ₹ 2,00,000 = ₹ 20,000 being divided in the ratio 1:1 between Unit 1 and Unit 2. Out of such Municipal tax only 60% is paid, therefore, Municipal tax allowed as a deduction in case of Unit 2 is only ₹ 6,000 [i.e. ₹ 20,000 \* ½ \* 60%].

3. Interest on loan is divided in unit A and unit B in 1:1 as both units are of equal dimension.

Computation of income from house property of Mr. Ajnabi for the tax year 2026-27

Particulars	Working	Unit 1		Unit 2	
		Details	Amount	Details	Amount
Gross Annual Value	1		Nil		1,00,000
Less: Municipal Tax	2		Nil		6,000
Net Annual Value			Nil		94,000
Less: Deduction u/s					
24(a) Standard Deduction			Nil	28200	
24(b) Interest on loan	3	20,000	20,000	20000	48,200
<b>Income from house property</b>			<b>(20,000)</b>		<b>45,800</b>

*Conclusion:* Income under the head Income from house property is ₹ 25,800 (being ₹45,800 – ₹20,000).

## **Recovery of Unrealised Rent and Arrears Rent [Sec. 23]**

### Applicability

The assessee has received arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant

**Tax Treatment**

The amount so received shall be taxable under the head ‘Income from house property’ in the year of receipt after deducting standard deduction @ 30% of such amount.

**Arithmetically**, taxable amount shall be -

$$70\% \times [\text{Recovery of Arrear Rent or Unrealised Rent}]$$

**Taxpoint**

- No other deduction shall be allowed from such income except standard deduction i.e. 30% of such receipt. (even legal expenditure shall not be allowed as deduction)
- The income is taxable on cash basis.
- Such receipt shall be chargeable as income from house property although the assessee is not the owner of such property in the year of receipt.

**Illustration 9**

Mr. Lucky Ali owns a house property let out since 1/4/2022 to a school for monthly rent of ₹ 10,000. There was no change in rent till 31/3/2026. On 1/4/2026, as per court decision rent was increased to ₹ 12,000 p.m. with retrospective effect from 1/4/2024 and duly paid by school in the same year. Legal expenditure for such suit has been incurred by Mr. Ali ₹ 30,000. Discuss tax treatment u/s 23.

**Solution**

Arrears rent belongs to the period 1/4/2024 to 31/3/2026 i.e., for 24 months.

Arrears rent received = ₹ 2,000 x 24 months = ₹ 48,000

Such rent is taxable in the year of receipt as under:

Particulars	Amount
Arrears of rent received	48,000
Less: Standard deduction u/s 22(a) equal to 30% of such rent	14,400
<b>Income from house property u/s 23</b>	<b>33,600</b>

**Note:** Legal expenditure is not deductible.

**Some special cases**

**Foreign property**

If house property is situated abroad, then annual value of such property shall be taxable as:

Assessee	Condition for taxability
Ordinarily resident	Always taxable
Not ordinarily resident or Non resident	Income must be received in India

**Note:** The annual value of such property would be computed as if the property is situated in India.

### **Disputed ownership**

Merely, due to dispute regarding the title of property, assessment cannot be postponed. In such case, person who is in receipt of income or who enjoys the possession of the property is assessable to tax.

### **Composite rent**

Together with rent of the building, if the owner gets charges for other services or rent of other assets provided in the building (e.g. furniture, machinery, etc.), amount so received is termed as 'composite rent'.

*Composite Rent = Rent for building + Rent for assets / Charges for various services*

### **Tax treatment of composite rent is as follows:**

- **Rent including charges for amenities or services like garden facility, food, lighting, etc. or other separable assets (like machinery, plant, furniture):** If the owner of house property gets composite rent for both property as well as for services rendered or other separable asset, such composite rent shall be treated as under:

<b>Particulars</b>	<b>Taxable under the head</b>
Sum received for the use of building.	'Income from house property'.
Sum received for other amenities or other separable assets.	'Profits & gains of business or profession'; or 'Income from other sources'

However, if segregation of composite rent is not possible, then the whole amount will be taxed either under the head 'Profits & gains of business or profession' or 'Income from other sources'.

**Taxpoint:** *Rent from paying guest is, generally, taxable under the head 'Income from other sources'.*

- **Letting of building with other inseparable assets (like machinery, plant, furniture):** If letting of only building is not possible or not acceptable to the other party, then sum received as rent from the properties is chargeable as business income or income from other sources even if the composite rent is segregable. E.g., letting out of hotel rooms, auditoriums, etc.

### **Co-ownership [Sec. 24]**

If two or more persons own a house property jointly, then they are known as co-owners. If individual share of each co-owner is definite and ascertainable then the share of each such person shall be taxable as his income from house property.

### **Tax treatment**

1. Share of each co-owner in the income from the property as computed in accordance with

sec. 20 to 23 shall be included in his total income.

- Where the house property is owned by co-owners and is occupied by each of the co-owner then all of them can claim benefit u/s 21(6) and interest on loan shall be allowed (allowed only if assessee opt out from default tax regime) to all the co-owners to the extent of ₹ 30,000 / ₹ 2,00,000 as the case may be.

**Illustration 10**

Ram and Shyam are co-owners of a house property (individual share being Ram 75%, Shyam 25%). The property is self-occupied by the co-owners. Interest on capital borrowed to purchase the property is ₹ 4,00,000. Find income from house property of Ram and Shyam for the tax year 2026-27, assuming Ram have opted for the old tax regime whereas Shyam is under default tax regime.

**Solution**

**Computation of Income from House Property of Ram and Shyam for the tax year 2026-27**

Particulars	Ram	Shyam
Net annual Value	Nil	Nil
Less: Interest on loan (Note)	2,00,000	Nil
<b>Income from House Property</b>	<b>(2,00,000)</b>	<b>Nil</b>

**Note:** Interest on loan divided as under:

In case of	Working	Share	Max. limit	Allowed interest
Ram	4,00,000 * 75%	3,00,000	2,00,000	2,00,000
Shyam	4,00,000 * 25%	1,00,000	2,00,000	Nil as deduction is not available under default tax regime

**Partner’s property used by the firm**

The business carried out by the firm should be regarded as carried on by all the partners. Thus, annual letting value of a property belonging to the assessee which is in occupation of the firm in which assessee is the partner, is not includible in income of the assessee-partner u/s 20.

**Property held as stock-in-trade [Sec. 21(5)]**

Where house property is held as stock-in-trade & not let out during any part of the previous year, then annual value of such property shall be computed as under:

Period	Annual Value
Up to 2 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority	Annual value of such property shall be taken to be <i>nil</i> .
After the completion of aforesaid period	Annual value of such property shall be taxable

## Exempted properties

Income from the following house properties are exempted from tax:

1. Any one palace or part thereof of an ex-ruler, provided the same is not let out [Sch III Entry 39].  
***Taxpoint:** If the ex-ruler has a house property and the part of which is self-occupied and remaining let out then only the self occupied part of the house property shall be exempted.*
2. House property of a local authority [Sch III Entry 22].
3. House property of an approved scientific research association [Sch III Entry 23].
4. House property of any University or other educational institution substantially financed by the Govt. [Sch VII Entry 17]
5. House property of any hospital or other institution substantially financed by the Govt. [Sch VII Entry 18]
6. House property located in Sikkim and owned by a Sikkimese [Sch III Entry 20]
7. House property of a political party [Sch VIII Entry 1]
8. House property of a trade union [Sch III Entry 31]
9. A farm house [Schedule II Entry 1]

## Taxpoint

- If an assessee transfers his house property to son's wife without adequate consideration, provision of sec. 25 [Deemed Owner] shall not be attracted. Income shall be computed in the hands of son's wife and then it shall be clubbed in the hands of the transferor u/s 99(1)(b)
- If letting of only building is not possible, then sum received as rent from the properties (termed as composite rent) is chargeable as business income or income from other sources. E.g., letting out of hotel room, factory building with machine, etc.

## Section & Rule Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Income from House Property	22	20
Determination of Annual Value	23 & 27	21
Deduction from income from house property	24 & 25	22
Arrears of rent and unrealised rent received subsequently	25A	23
Property owned by co-owners	26	24
Deemed Owner	27	25
Rule – Unrealised Rent	4	21

## PROFITS & GAINS OF BUSINESS OR PROFESSION

### Income chargeable under the head [Sec. 26]

Sec. 26 enlists the incomes, which are taxable under the head '*Profits & gains of business or profession*':

1. **Profits & gains of any business or profession**: Any income from business (including speculative business) or profession shall be taxable under this head.
2. **Compensation to Management agency**: Any compensation/other payment (whether revenue or capital) due to or received -

By	In connection with
Any person managing the affairs of an Indian company	Termination or modification of terms and conditions of his appointment
Any person managing the affairs of any company in India	
Any person holding an agency in India for any part of the activities relating to the business of any other person	Termination of agency or the modification of terms and conditions in relation thereto
Any person	The vesting in the Government or in any corporation owned/controlled by the Government, of the management of any property or business.
Any person	The termination or the modification of the terms and conditions, of any contract relating to his business

3. **Income of trade or professional association's**: Income derived by a trade, professional or similar association from rendering specific services to its members shall be taxable under this head.

This is an exception to the general principle that a surplus of mutual association cannot be taxed.

4. **Export incentive**: An export incentive in form of -
  - Profit on sale of import license.
  - Cash assistance received/receivable by an exporter under a scheme of the Government of India
  - Duty drawback or remission (received/receivable) for export
  - Any other export incentive
5. **Perquisite from business or profession**: The value of any benefit or perquisite arising from business or the exercise of a profession, whether:

- a. convertible into money or not; or
  - b. in cash or in kind or partly in cash and partly in kind
6. **Remuneration and Interest on capital to partner:** Any interest salary, bonus, commission or remuneration received by a partner from the firm (or Limited Liability Partnership) shall be taxable as business income in the hands of the partner to the extent allowed in hands of firm (or Limited Liability Partnership) u/s 35(e).
7. **Amount received or receivable for certain agreement:** Any sum, whether received or receivable in cash or in kind, under an agreement for -
- not carrying out any activity in relation to any business or profession; or
  - not sharing any know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provisions for services.
- Exceptions:** The aforesaid provision is not applicable in respect of the following:
- a. any sum received or receivable in cash or in kind on account of transfer of the right to manufacture, produce or process any article or thing; or right to carry on any business or profession, which is chargeable under the head Capital gains;
  - b. any sum received as compensation from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone Layer under the United Nation Environment Programme, in accordance with the terms of agreement (whether or not in writing, whether or not intended to be enforceable by legal proceedings) entered into with the Government of India
8. **Keyman Insurance Policy:** Any sum received under a Keyman Insurance Policy including bonus on such policy.
9. **Conversion of stock into capital asset:** The fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset.
10. **Recovery against certain capital assets covered u/s 46:** Any sum received or receivable (in cash or kind) on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction u/s 46.

### **General Points**

1. **Chargeability:** As per sec. 276(1), income chargeable under the head “Profits & gains of business or profession” or “Income from other sources” shall, subject to the provision of sec. 276(2), is to be computed in accordance with the method of accounting (i.e. either on cash or on accrual basis) regularly followed by the assessee. However, there are certain expenditures specified u/s 37, which shall be deductible only on cash basis.  
As per sec. 276(3), where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or has not been regularly followed by the assessee, or income has not been computed in accordance with the notified

standards, the Assessing Officer may make an assessment in the manner provided u/s 271 i.e. Best Judgment Assessment.

Further, as per sec. 278(2), any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the tax year in which reasonable certainty of its realisation is achieved.

Further, as per sec. 278(3), subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency, shall be treated as the income of the tax year in which it is received, if not charged to income-tax in any earlier tax year.

2. **Income from letting of residential property**: Any income from letting out of a residential house or a part of it by the owner shall not be included in income under this and shall be chargeable only under the head “Income from house property”
3. **Speculative transaction**: Sec. 26(3) provides that where an assessee carries on speculation business, that business of the assessee must be deemed as distinct and separate from any other business.

Taxpoint

- As per Sec. 66(31), speculative transaction means a transaction in which contract for the purchase and sale of any commodity including stock and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts, other than the following transactions:
  - a. a specified derivative transaction;
  - b. a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured, or merchandise sold by him;
  - c. a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;
  - d. a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage, to guard against loss which may arise in the ordinary course of his business as such member
- Further, as per sec. 113(5), where any part of the business of *a company* consists of purchase and sale of shares of other companies, such company shall be deemed to be carrying on speculation business to the extent of purchase and sale of shares. However, this rule is not applicable in case of companies -
  - a. of which gross total income mainly consists of income which is chargeable under the head “Income from house property”, “Capital gains”, and “Income from other sources”; or

- b. of which principal business is the business of trading in shares or banking or granting of loans and advances.

Notes: Above explanation covers only transactions of purchase and sale of shares. Debentures, units of UTI or of Mutual Funds are not covered by this provision.

## Incomes not taxable under this head

Following incomes shall not be taxable under this head:

1. **Rent from residential house property** is taxable u/s 20 under 'Income from house property' even though -
  - the assessee is engaged in the business of letting out properties on rent; or
  - such property is held as stock in trade
2. **Dividend on shares** is taxable u/s 92 under the head 'Income from other sources' even though the assessee deals in shares and such shares are held as stock in trade. The provision is not applicable in case of interest on securities held as stock in trade.
3. **Winning from lotteries, races etc.** are taxable under the head 'Income from other sources' even if such income is derived through regular business activity.

**Treatment of lottery ticket held as stock in trade:** However, where an assessee deals in lottery tickets and some of the lottery tickets remained unsold, any winning from such unsold lottery ticket shall be treated as incidental to business and taxed under the head 'Profits and gains of business or profession'

4. **Exempted income**
5. **Sum taxable under the head 'Capital gains' for the purpose of sec. 26(h)** shall not be taxable under this head. E.g. profit on sale of route permit shall not be taxable under the head 'Profits & gains of business or profession'.

## Expenditures allowed as deduction

### General Notes

1. **Capital -vs.- Revenue expenditure:** Capital expenditures are not allowed as deduction, unless & until expressly allowed whereas revenue expenditures are allowed as deduction until & unless expressly disallowed under the Income tax Act.
2. **Expenditure must relate to the business of the assessee:** Expenditure must have been incurred by the assessee for its business.

**Note:** In case where the assessee incurs expenditure for its own business, the mere fact that the benefit of such expenditure is enjoyed by some other person, cannot deny the admissibility of the expenditure.

3. **Anticipated loss or expenditure:** Subject to certain exceptions, no deductions are allowed for anticipated losses. E.g. in general, provision for bad & doubtful debts is disallowed

4. **Notional expenditure:** No one can earn income from himself/herself. For instance, rent paid to a sole proprietor, salary to proprietor, interest on capital to proprietor, etc. are not income in the hands of the proprietor. Hence, it is not deductible from the income of business as expenditure.

## Specific Deductions

As per sec. 27, income under this head will be computed considering the provisions of sec. 28 to 60 (except sec. 58), which decides the admissibility of expenditures for computing income under this head.

### Rent, rates, taxes, repairs & insurance [Sec. 28]

Following shall be allowed in respect of premises, machinery, plant or furniture used for the purposes of the business or Profession

- a. Insurance premium;
- b. land revenue, local rates or municipal taxes paid;
- c. rent paid, when the premises are occupied by the assessee as a tenant;
- d. Current repairs to the premises (not being capital expenditure) when the premises are occupied by the assessee otherwise than as a tenant;
- e. Cost of repairs (not being capital expenditure), when the premises are occupied by the assessee as a tenant and where he has undertaken to bear the cost of repairs to the premises; and
- f. Current repairs to machinery, plant or furniture (not being capital expenditure)

**Taxpoint:** In case where the premises, building, machinery, plant or furniture is partly used or not wholly and exclusively used for the purposes of the business or profession, the deduction shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage for the purposes of the business or profession

### Deductions related to employee welfare [Sec. 29]

The following sums, in the case of an assessee being an employer, shall be allowed as deduction

#### **Contribution towards RPF & Superannuation Fund**

Any sum paid, by the employer towards recognised provident fund or an approved superannuation fund subject to such limits, as may be prescribed, for recognising the provident fund or approving the superannuation fund.

Where contributions are not made annually either as fixed amounts, or annual contributions fixed on some definite basis by reference to the income chargeable under the head “Salaries”

or the contributions or to the number of members of the fund, such contribution are deductible subject to fulfilment of specified conditions

#### **Contribution towards Notified Pension Scheme u/s 124**

Any sum paid by the assessee, as an employer, by way of contribution towards a pension scheme, as referred to in sec. 124, on account of an employee is allowed as a deduction.

**Maximum Limit:** Such contribution should not exceed **14%** of the salary of the employee in the tax year.

“Salary” includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites

#### **Contribution towards approved gratuity fund**

Any sum paid as contribution towards an approved gratuity fund created by the assessee exclusively for the benefit of his employees under an irrevocable trust is allowed as deduction.

Further, any provision made for the purpose of making contribution towards such gratuity fund (subject to sec. 37 i.e., it is actually paid within the due date of filing return) or for payment of any gratuity that has become payable during the tax year shall also be allowed.

**Taxpoint:** Double deduction is not available

#### **Employee’s contribution towards staff welfare scheme**

Any sum received by an employer from his employees as contribution towards -

- Recognised Provident Fund; or
- Approved Superannuation Fund; or
- Any other fund set up under the provision of the Employee’s State Insurance Act, 1948; or
- Any other fund for the welfare of such employees

- is treated as an income of the employer. Subsequently, when such sum is credited by the employer to the employee’s account in the relevant fund *on or before the due date of filing return of income u/s 263(1)*, then deduction is allowed.

#### **Certain expenses or contributions not deductible**

No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards setting up or formation of, or as contribution to, any fund, trust, company, AOP, BOI, society or other institution for any purpose.

**Exception:** Where such sum is paid by way of contribution towards approved superannuation fund, recognised provident fund, approved gratuity fund, NPS as per the requirements under any law, then such sum is allowed.

### **Deduction on certain premium [Sec. 30]**

The following sums shall be allowed as deduction

#### **Insurance premium for stocks & stores**

Premium paid by any assessee in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of business or profession

#### **Insurance premium for life of cattle**

Premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society

#### **Insurance premium for health of employees**

Premium paid (other than by cash) by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—

- the General Insurance Corporation of India & approved by the Central Government
- any other insurer and approved by the Insurance Regulatory and Development Authority

### **Deduction for bad debt and provision for bad and doubtful debt [Sec. 31]**

#### **Provision for Bad and Doubtful Debts [Sec. 31(1)]**

In the case of following person, provision for bad and doubtful debts (PBDD) shall be allowed to the extent of specified amount:

<b>Person</b>	<b>To that extent PBDD is allowed</b>
<b>A.</b> Scheduled bank [not being a foreign bank] or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank	8.5% of the total income (computed before making any deduction under this section and Chapter VIII)
<b><u>Additional Deduction for the Person covered under (A)</u></b>	
a. 10% of the aggregate average advances made by the rural branches of such bank (Rule 22)	
b. Further, at its option, further deduction shall also be allowed to aforesaid person (other than co-operative bank), for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government provided such income has been disclosed in the return of income under the head "Profits and gains of business or profession"	

<b>B.</b> foreign bank or Public financial institution or State Financial Corporation or State Industrial Investment Corporation or Non-banking financial company	5% of the total income (computed before making any deduction under this section and Chapter VIII)
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### **Notes**

- In case of person covered under this section, the deduction for bad debts u/s 31(2) shall be limited to an amount by which such debts exceed the credit balance in the provision for bad and doubtful debts. If the actual bad debt during the tax year is less or equal to the provision for doubtful debts, no deduction for bad debt shall be allowed.
- *Rural branch* means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than 10000 according to the last preceding census, of which the relevant figures have been published before the first day of the tax year.

### **Bad Debts [Sec. 31(2)]**

Any debt or part thereof, which becomes bad shall be allowed as deduction.

*Taxpoint:* It is the assessee, who decides whether a debt has become bad or not and the Assessing Officer can never insist the assessee for production of proof that the debt had become bad.

### **Conditions**

1. **Debt must be incidental to the business** or profession of the assessee. There must be a close nexus between the debt and the business of the assessee.

*Example:* Bad debt arising out of advances made by a lawyer to his client to assist him in purchasing properties is not admissible as bad debt. As it is not the business of lawyer to provide loans. Such loss is not allowed in any provision of the Act

2. **The debt has been considered as income** of the assessee of that tax year or of earlier tax years

*Example:* Advance given to supplier for purchase of raw-material later forfeited, is not allowed as deduction under this section, this is because the same has never been a part of income. However, deduction can be claimed u/s 34.

*Exception:* Bad debt arising due to insolvency of borrower is allowed as deduction provided money has been lent in ordinary course of money lending business (even though such money lent had never been a part of income)

3. **It must have been written off** in the accounts of the assessee.

*Taxpoint:* Provision for bad debt is not allowed as deduction.

❖ *Exception:* Where the amount of such debt has been taken into account in computing the income of the assessee of the tax year in which the amount of such debt becomes irrecoverable or of an earlier tax year on the basis of notified Income Computation and Disclosure Standards (ICDS) without recording the same in the accounts, then, such debt shall be allowed in the tax year in which such debt

becomes irrecoverable and it shall be deemed that such debt has been written off as irrecoverable in the accounts.

**Recovery of bad debts [Sec. 38(1)(d)]**

As per sec. 38(1)(d), where a deduction has been allowed in respect of a bad debt or part of debt u/s 31(2), then, if the amount subsequently recovered on any such debt or part thereof is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession.

**Note:** Such recovery shall be taxable irrespective of the fact whether the business is continued or not.

**Depreciation [Sec. 33]**

Sec. 33 provides for depreciation on -

Tangible assets	Building, Machinery, Plant and Furniture.
Intangible assets	Know how, Copyright, Trade Mark, Patent, Licence, Franchise, or any other business or commercial right of the similar nature acquired on or after 1/4/1998 However, it does not include goodwill

**Conditions for claiming depreciation**

Depreciation is allowed provided the following conditions are satisfied:

<b><u>Condition 1:</u></b> Asset must be <b>owned</b> by the assessee.	<b><u>Condition 2:</u></b> Asset must be <b>used</b> for the purpose of business or profession during the tax year.
<b><u>Notes</u></b>	
<ul style="list-style-type: none"> <li>⊛ <b><u>Beneficial owner:</u></b> Assessee need not be a registered owner, even a beneficial owner can claim depreciation.</li> </ul>	<ul style="list-style-type: none"> <li>⊛ <b><u>Passive use -vs.- Active use:</u></b> Use includes <i>active use</i> as well as <i>passive use</i>. Active use means actual use of the property for the purpose of business or profession. Whereas passive use includes “ready to use”. It means, if a property was not actually used for business or profession but was ready to use in the tax year, in such case, assessee can claim depreciation on such assets</li> </ul>
<ul style="list-style-type: none"> <li>⊛ <b><u>Co-owner:</u></b> In case of joint ownership, depreciation is allowed on proportionate basis.</li> </ul>	
<ul style="list-style-type: none"> <li>⊛ <b><u>Property acquired on hire purchase:</u></b> In case of hire purchase, the buyer can claim depreciation even though he does not get legal title of the</li> </ul>	<ul style="list-style-type: none"> <li>⊛ <b><u>Partly used for business or profession:</u></b> As per sec. 33(3)(b), if an asset is partly used for business or profession and partly used for other purpose, then proportionate</li> </ul>

asset till he pays the last instalment.	depreciation (as determined by the Assessing Officer) shall be allowed.
✿ <b><u>Capital expenditure on a property by the lessee:</u></b> Where an assessee being a lessee of a property incurs any capital expenditure by way of improvement, extension, super construction, etc. on a building being used for his business or profession, he is entitled to depreciation in respect of such capital expenditure.	✿ <b><u>House property let out to tenant for smooth running of the business:</u></b> If an assessee lets out a property to his employee and where such letting-out supports smooth flow of his business, then rent received from employee shall be chargeable under the head "Profits & gains of business or profession" and such property shall be eligible for depreciation u/s 33. Similarly, where an assessee makes available his property to any Government agency for locating branch of a nationalized bank, police station, post office, tax office, railway staff quarters, etc. for the purpose of running the business of assessee more efficiently, then such letting out shall be deemed to be incidental to business and depreciation on such building shall be allowed u/s 33.
✿ <b><u>Sec. 53A of Transfer of Property Act:</u></b> Possessor of an immovable property u/s 53A of Transfer of Property Act can claim depreciation even though he is not the registered owner of the property.	

**Taxpoint:** If all conditions are satisfied, depreciation shall be available whether the assessee has claimed the same or not. It is mandatory to claim depreciation.

#### **Method of computing depreciation (other than power units)**

The method of computing depreciation as per Income tax Act is entirely different from accountancy method. For Income tax purpose, assets are categorised into Block of Assets.

#### **Block of Assets [Sec. 2(17)]**

Block of assets means a group of *assets of same nature*, in respect of which *same rate of depreciation* is charged. In other words, to fall in the same block, the following two conditions are to be satisfied:

- Assets must be of same nature;
  - Tangible assets being building, machinery, plant or furniture, and
  - Intangible assets, being know-how, patents, copy-rights, trade marks, licenses, franchises or any other business or commercial rights of similar nature acquired on or after 1-4-1998 (it does not include goodwill);
- Rate of depreciation on such asset must be same.

**Method of Depreciation**

Depreciation shall be allowed on written down value method at the rates prescribed.

**Extract of depreciation-rate [Rule 25 with Appendix I]**

Block		Nature of Asset
Buildings <sup>1</sup>	5%	Residential building other than hotels and boarding
Buildings	10%	Non residential building, godown, office, factory, etc. including hotels and boarding
Buildings	40%	Temporary construction
Furniture	10%	Any furniture including electrical fittings
Plant/Machinery	20%	Ocean going ships, vessels, speed boats
Plant/Machinery	30%	Motor car (including lorries and buses) used for hiring purposes
Plant/Machinery	40%	Computer including computer software Books owned by a professional
Plant/Machinery	40%	Air or water pollution control equipment
Plant/Machinery	15%	Oil Wells
Plant/Machinery	15%	In general (if nothing is mentioned regarding nature of plant & machinery and including motor car not used for hiring purpose)
Intangible assets <sup>3</sup>	25%	Acquired after 31/3/98

<sup>1</sup> Buildings include roads, bridges, culverts, wells (excluding oil wells) and tube wells.

<sup>2</sup> Plant includes part of the plant but does not include tea bushes or live stocks or buildings or furniture & fittings.

<sup>3</sup> Patent, Know-how, Copy-rights, Trade-mark, Licences, Franchises and other business or commercial right of similar nature (it does not include goodwill)

**Calculation of depreciation (at a glance)**

Particulars	Amount
W.D.V of the block at the beginning of the tax year	***
Add: Actual cost of assets (falling in the block) acquired during the tax year	***
	ABC

Less: Money payable alongwith scrap value in respect of that asset (falling within the block) which is sold, discarded, demolished or destroyed during the tax year [ <sup>§</sup> subject to max. of ABC]	(DE) <sup>§</sup>
Written Down Value [ <sup>#</sup> XYZ cannot be negative]	XYZ <sup>#</sup>
Less: Depreciation (as a % on XYZ)	(***)
Opening WDV for 1 <sup>st</sup> day of next year	****

### **When depreciation is not charged**

Depreciation is not charged in the following two cases:

- 1) When 'DE' (Sale proceeds) exceeds ABC, the excess shall be treated as short term capital gain.
- 2) When 'XYZ' (Value of block before depreciation) is positive but the block does not have any asset. In such case, such positive value shall be treated as short term capital loss.

### **Significance of date of purchase (Effect of time on depreciation)**

Where -

- a) an asset is acquired by the assessee *during the tax year*; and
  - b) *is put to use in the same tax year for less than 180 days*,
- the depreciation in respect of such asset is restricted to 50% of the normal depreciation.
- Except above, date of purchase has no relevance.

**Taxpoint:** *There is no significance of date of sale for computation of depreciation.*

### **Illustration 1**

M/s Anita Enterprises has written down value in furniture block (depreciation rate 10%) as on 1/4/2026 ₹ 80,000. The block consists of two furniture X and Y.

Compute depreciation u/s 33 for the tax year 2026-27 in the following cases:

- Case A Furniture X sold for ₹ 20,000 on 1/5/2026
- Case B Furniture X sold for ₹ 1,00,000 on 1/1/2027
- Case C Furniture X sold for ₹ 1,00,000 and Furniture S purchased for ₹ 35,000 as on 1/7/2026
- Case D Furniture X sold for ₹ 10,000 and Furniture S purchased for ₹ 40,000 as on 1/7/2026
- Case E Furniture X sold for ₹ 10,000 and Furniture S purchased for ₹ 40,000 as on 11/11/2026
- Case F Furniture X sold for ₹ 2,00,000 and Furniture S purchased for ₹ 40,000 as on 11/11/2026
- Case G Furniture X and Furniture Y both sold for ₹ 10,000 and ₹ 35,000 respectively.

- Case H Furniture X and Furniture Y both sold for ₹ 10,000 and ₹ 35,000 respectively as on 11/11/2026. New Furniture T purchased for ₹ 5,000 as on 1/7/2026.
- Case I Furniture Z purchased for ₹ 40,000 on 1/7/2026 and the same being put to use on 11/11/2026.
- Case J Furniture Q purchased for ₹ 50,000 on 1/7/2026 but put to use on 1/11/2027.
- Case K Furniture R purchased for ₹ 30,000 on 1/7/2025 but put to use on 11/11/2026.
- Case L Furniture S purchased for ₹ 10,000 on 1/7/2026 but put to use on 11/11/2026 and Furniture X and Y sold for ₹ 10,000 and ₹ 6,000 respectively.
- Case M Sold Furniture X and Y for ₹ 95,000 on 1/7/2026 & purchased Furniture R for ₹ 30,000 on 11/11/2026
- Case N Sold Furniture X for ₹ 90,000 on 11/7/2026 and following Furniture put to use -
- Furniture A on 18/12/2026, purchased on 17/12/2026 for ₹ 30,000;
  - Furniture B on 18/2/2027, purchased on 15/8/2026 for ₹ 50,000;
  - Furniture Z on 18/4/2026, purchased on 17/7/2025 for ₹ 60,000;
  - Furniture P on 8/12/2026, purchased on 17/5/2025 for ₹ 10,000;
  - Furniture Q on 1/4/2027, purchased on 31/3/2027 for ₹ 20,000.

Assume in all cases new furniture is charged to depreciation @ 10%

**Solution**

Computation of depreciation for the tax year 2026-27

Particulars	Case A	Case B	Case C	Case D	Case E	Case F	Case G
<u>Block:</u> <u>Furniture</u> <u>(10%)</u>							
W.D.V. as on 1/4/2026	80,000	80,000	80,000	80,000	80,000	80,000	80,000
Add: Purchase	Nil	Nil	35,000	40,000	40,000	40,000	Nil
	80,000	80,000	1,15,000	1,20,000	1,20,000	1,20,000	80,000
Less: Sale Proceeds	20,000	80,000 <sup>#</sup>	1,00,000	10,000	10,000	1,20,000 <sup>#</sup>	45,000
	60,000	Nil	15,000	1,10,000	1,10,000	Nil	35,000
<b>Depreciation</b>	6,000	Nil	1,500	11,000	9,000 <sup>!</sup>	Nil	Nil
<b>Short term capital gain</b>		20,000				80,000	
<b>Short term capital Loss</b>							(35,000)

<sup>#</sup> Sale Proceeds cannot exceed Opening WDV as increased by actual cost of asset acquired during the tax year. Excess, if any, shall be considered as short-term capital gain.

Computation of depreciation for the tax year 2026-27



Particulars	Case H	Case I	Case J	Case K	Case L	Case M
<b>Block: Furniture (10%)</b>						
W.D.V. as on 1/4/2026	80,000	80,000	80,000	80,000	80,000	80,000
Add: Purchase	5,000	40,000	Nil	30,000	10,000	30,000
	85,000	1,20,000	80,000	1,10,000	90,000	1,10,000
Less: Sale Proceeds	45,000	Nil	Nil	Nil	16,000	95,000
	40,000	1,20,000	80,000	1,10,000	74,000	15,000
<b>Depreciation</b>	4,000	10,000 <sup>2</sup>	8,000	11,000 <sup>3</sup>	6,900 <sup>4</sup>	750 <sup>5</sup>
<b>Short term capital gain</b>						
<b>Short term capital Loss</b>						

<sup>1</sup>(₹ 70,000 \* 10%) + (₹ 40,000 \* 10% \* ½)      <sup>2</sup>(₹ 80,000 \* 10%) + (₹ 40,000 \* 10% \* ½)

<sup>3</sup>Though the asset was put to use for less than 180 days but since it was not acquired in the current year hence provision for ½ year depreciation shall not be applicable

<sup>4</sup>(₹ 10,000 \* 10% \* ½) + (₹ 64,000 \* 10%)      <sup>5</sup>(₹ 15,000 \* 10% \* ½)

**Case N: Computation of depreciation for the tax year 2026-27**

Particulars	Details	Amount
<b>Block: Furniture (10%)</b>		
W.D.V. as on 1/4/2026		80,000
<i>Addition during the year:</i>		
- Furniture A (eligible for ½ year depreciation)	30,000	
- Furniture B (eligible for ½ year depreciation)	50,000	
- Furniture Z	60,000	
- Furniture P	10,000	1,50,000
		2,30,000
Less: Sale Proceeds		90,000
		1,40,000
<b>Depreciation</b> [(₹ 80,000 * 10% * ½) + {₹ 60,000 i.e. (₹ 1,40,000 – ₹ 80,000) * 10%}]		10,000
Since, furniture Q was put to use on 1/4/2027, therefore depreciation shall not be charged in the tax year 2026-27.		

### Illustration 2

Mr. X, a grower and manufacturer of tea, purchased machinery (15%) on 10-04-2024 for ₹ 10 lakh. He computed depreciation for tax year 2026-27 as given below; needs your comment on his working:

Particulars	Amount
Opening W.D.V. as on 1/4/2024	Nil
Add: Assets purchased during the year	10,00,000
	10,00,000

Less: Depreciation for the tax year 2024-25 [ $\text{₹ } 10,00,000 * 15\% * 40\%$ ]	60,000
(As he is engaged in the business of growing and manufacturing tea; hence 60% is considered as part of agricultural income)	
Opening W.D.V. as on 1/4/2025	9,40,000
Less: Depreciation for the tax year 2025-26 [ $\text{₹ } 9,40,000 * 15\% * 40\%$ ]	56,400
<b>Opening W.D.V. as on 1/4/2026</b>	<b>8,83,600</b>

Further, compute his business income for tax year 2026-27 assuming that his income before depreciation and without reducing element of agricultural income is ₹ 8,00,000/-

**Solution**

The correct computation of depreciation is as follow:

Particulars	Amount
Opening W.D.V. as on 1/4/2024	Nil
Add: Assets purchased during the year	10,00,000
	10,00,000
Less: Depreciation for the tax year 2024-25 [ $\text{₹ } 10,00,000 * 15\%$ ]	
(Considering the entire income as taxable income)	1,50,000
Opening W.D.V. as on 1/4/2025	8,50,000
Less: Depreciation for the tax year 2025-26 [ $\text{₹ } 8,50,000 * 15\%$ ]	1,27,500
<b>Opening W.D.V. as on 1/4/2026</b>	<b>7,22,500</b>

Computation of business income of Mr. X for tax year 2026-27

Particulars	Amount
Income before depreciation and without reducing element of agricultural income	8,00,000
Less: Depreciation	1,27,500
	6,72,500
Less: Agricultural Income being 60% of above	4,03,500
<b>Profits and Gains of Business or Profession</b>	<b>2,69,000</b>

**Additional depreciation [Sec. 33(8) & (9)] Available only in Old Regime**

**Applicability**

All assessee engaged in the business of *manufacture or production* of any article or thing or in the business of generation, transmission or distribution of power

**Conditions to be satisfied**

1. Assessee acquires and installs the **new machinery or plant** and such machinery or plant is first put to use by the assessee for the purposes of business
2. Such plant or machinery should not be:

- Ships and air crafts; or
- Any plant or machinery which was used either within or outside India by any other person before such installation; or
- Any plant or machinery installed in office premises or any residential accommodation or guest house; or
- Any office appliances or road transport vehicle; or
- Any plant or machinery, which is allowed for 100% deduction (whether by way of depreciation or otherwise) in the tax year.

**Taxpoint:** Additional depreciation shall be available only on plant and machinery and not on other asset like furniture, building, etc.

### **Rate of additional depreciation**

Rate of additional depreciation is 20% of actual cost of such plant or machinery.

- Where, if the asset is acquired and put to use for less than 180 days then additional depreciation @ 10% (i.e., 50% of 20%) of actual cost shall be allowed in that tax year **and** the deduction for the balance 10% shall be allowed in the immediately succeeding tax year.

### **Taxpoint**

1. Additional depreciation shall be reduced while computing the closing WDV of the respective block.
2. Additional depreciation is not available if the new plant or machinery is sold in the year of acquisition.
3. Additional depreciation is not available if the power unit is claiming depreciation under straight line method i.e. u/s 33(2)
4. The business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation [Circular No. 15/2016 dt 19-05-2016]

### **Provision Illustrated**

B Ltd., a newly formed manufacturing concern, has furnished you the following details to compute Depreciation allowed for the tax year 2025-26 and 2026-27:

Assets	Date of Acquisition	Cost of Acquisition	Rate of depreciation
Plant A	02/04/2025	5,00,000	15%
Plant B	07/05/2025	3,00,000	15%
Plant C	15/12/2025	2,00,000	15%
Plant D	05/05/2026	1,00,000	15%

### **Solution**

#### **Computation of Additional Depreciation**

Assets	Rate	Cost	Additional depreciation	
			Tax Year 2025-26	Tax Year 2026-27
Plant A	20%	5,00,000	1,00,000	Nil <sup>#</sup>
Plant B	20%	3,00,000	60,000	Nil <sup>#</sup>
Plant C	10%	2,00,000	20,000	20,000
Plant D	20%	1,00,000	Nil	20,000
Total			1,80,000	40,000

**Calculation of Depreciation u/s 33 of Plant (15%) for the tax year 2025-26 and 2026-27**

Particulars	Details	Amount
W.D.V. as on 1/4/2025		-
Add: Cost of asset acquired during the year		10,00,000
		10,00,000
Less: Sale during the year		Nil
		10,00,000
Depreciation (normal) [(₹ 8,00,000 * 15%) + (₹ 2,00,000 * 15% * ½)]	1,35,000	
Additional depreciation (as computed above)	1,80,000	3,15,000
W.D.V. as on 1/4/2026		6,85,000
Add: Cost of asset acquired during the year		1,00,000
		7,85,000
Less: Sale during the year		Nil
		7,85,000
Depreciation (normal) [₹ 7,85,000 * 15%]	1,17,750	
Additional depreciation (as computed above)	40,000	1,57,750
<b>W.D.V. as on 1/4/2027</b>		<b>6,27,250</b>

**Illustration 3**

An industrial undertaking, which commenced the manufacturing activity with effect from 1<sup>st</sup> September, 2026 has acquired the following assets during the tax year 2026-27:

Assets	Date of acquisition	Date when put to use	Cost of acquisition
Factory building	4-4-2026	1-9-2026	50,00,000
<u>Plant &amp; Machinery</u>			
Machinery A	5-5-2026	1-9-2026	2,00,000
Machinery B	7-6-2026	1-9-2026	5,00,000
Machinery C	30-8-2026	1-9-2026	10,00,000
Machinery D	1-9-2026	31-10-2026	4,00,000
Machinery E	1-1-2027	28-2-2027	3,00,000
Machinery F (second hand)	11-1-2027	13-1-2027	2,00,000



Motor car	1-2-2027	1-2-2027	5,00,000
Air-conditioner (installed in the office)	1-2-2027	2-2-2027	1,00,000

Compute the depreciation allowable for the tax year 2026-27 and the written down value as on 1<sup>st</sup> April 2027.

**Solution**

Computation of depreciation allowable for the tax year 2026-27

Particulars	Building	Plant & Machinery <sup>1</sup>
Rate	10%	15%
W.D.V. as on 1-4-2026	Nil	Nil
Add: Cost of assets acquired during the year	50,00,000	32,00,000
	50,00,000	32,00,000
Less: Sale proceeds	Nil	Nil
	50,00,000	32,00,000
Depreciation on above	5,00,000	7,77,500
<b>W.D.V. as on 1-4-2027</b>	<b>45,00,000</b>	<b>24,22,500 (Note)</b>

1. Block consists of Machinery A to Machinery F, Motor Car & Air-conditioner.

2. Depreciation on plant and machinery

- Normal	$[(\text{₹ } 17,00,000 * 15\%) + (\text{₹ } 15,00,000 * 15\% * \frac{1}{2})]$	3,67,500
- Additional (on Machinery A to E)	$[(\text{₹ } 17,00,000 * 20\%) + (\text{₹ } 7,00,000 * 20\% * \frac{1}{2})]$	4,10,000
Total Depreciation		7,77,500

**Note**

1. Asset which was put to use for less than 180 days is eligible for  $\frac{1}{2}$  year depreciation. However, additional depreciation of ₹ 70,000/- (i.e. ₹ 7,00,000 \* 20% \*  $\frac{1}{2}$ ) shall be available in the tax year 2027-28.

2. Additional depreciation is not available on following assets:

Asset	Reason
Factory building	As it is not plant and machinery
Machinery-F	As it is a second hand machinery
Motor car	As it is a road transport vehicle
Air conditioner	As it is installed in office

**Treatment of Slump sale**

**Slump sale [Sec. 2(103)(a)]:** means the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer

In case of slump sale, following shall be reduced from the block of asset in respect of assets transferred by way of slump sale:

Particulars	Amount
Actual cost of asset falling in the block and transferred under slump sale	***
<i>Less:</i> Depreciation (actual) allowed on such asset in respect of any tax year commencing on or before 01-04-1986	(***)
<i>Less:</i> Depreciation (notional) that would have been allowable from the tax year 1987-88 onwards as if the asset is only asset in the relevant block.	(***)
Written down value of the asset sold under slump sale	***

### Depreciation in case of Power Units

An undertaking engaged in the business of generation or generation and distribution of power may charge depreciation at its choice under -

- Written-down value method as followed by all other assessee (usual); or
- Straight-line method at the prescribed rate in ‘Appendix II’ of the Income Tax Rules on actual cost of asset\* (not the block value of asset)

However, such option shall be exercised before the due date of furnishing return of income. Further, it may be noted that once the option is exercised, it shall be applicable for all subsequent tax years.

**Note:** Additional depreciation is not available to the assessee who claims depreciation as per Straight-Line Method.

### Terminal Depreciation and Balancing Charge

Applicable to	Assessee engaged in generation or generation and distribution of power.	
Conditions	<ol style="list-style-type: none"> <li>1. Assessee must follow the straight-line method of depreciation at specified rates.</li> <li>2. The assets are sold, discarded, demolished or destroyed in the tax year:</li> </ol>	
Meaning	<b>Terminal Depreciation</b>	<b>Balancing Charge</b>
	Loss on transfer of such asset is treated as terminal depreciation. <b><u>Taxpoint:</u></b>	Profit on transfer of such asset to the maximum of accumulated depreciation shall be treated as balancing charge. The difference between sale price and actual cost shall be treated as capital gain.

\* Where asset is acquired during the tax year and put to use for less than 180 days, depreciation @ 50% of the prescribed rate shall be available.

	<ul style="list-style-type: none"> <li>• <u>Terminal depreciation</u> = + ve value of [WDV of assets – (Sale value or Scrap value)]</li> <li>• Terminal depreciation is written off in the books of accounts.</li> </ul>	<p><b><u>Taxpoint:</u></b></p> <p><u>Balancing Charge</u> = - ve value of [WDV of assets – (Sale value + Scrap value)]</p> <p>However, balancing charge cannot exceed accumulated depreciation claimed on such asset.</p>
Treatment	Terminal depreciation is fully allowed as deduction as a business loss.	As per sec. 38(1)(b), balancing charge is fully taxable <i>as business income</i> in the tax year in which such income falls due. The provision holds good even if the business does not exist in that year.

### Actual cost of assets [Sec. 39]

In calculation of actual cost, apart from cost price of the asset, following expenditure incurred relating to such asset shall be included:

- Expenses directly related to acquisition of the asset including travelling expenditure incurred for acquiring asset.
- Expenses necessary to bring the asset to site, installation, and to make it ready to use, e.g. carriage inward, loading and unloading charges, installation cost, trial run cost, etc.
- Expenses incurred to increase the capacity of the asset or to make it fit prior to its use.

*Actual cost* means the actual cost of the assets to the assessee, as reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority. *Eg.:* If an asset is purchased for ₹ 5,00,000 and Government grant received for the same ₹ 1,00,000, then the actual cost of the asset for tax purpose shall be ₹ 4,00,000.

Following points, given u/s 39, shall be considered -

Particulars	Actual cost of acquisition
Assets acquired against cash	In respect of acquisition of any asset or part thereof: <ol style="list-style-type: none"> <li>a) payment or aggregate of payments made to a person in a day is made otherwise than by specified banking or online mode<sup>†</sup>; and</li> <li>b) such payment exceeds ₹ 10,000</li> </ol> Such payment shall be ignored for the purposes of determination of actual cost.

<sup>†</sup> Specified Banking or Online Mode shall mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as may be prescribed.

Asset used for business after it ceases to be used for scientific research	The actual cost to the assessee <i>Less:</i> Any deduction allowed u/s 45	
Asset acquired by way of gift or inheritance	Actual cost to the previous owner: <i>Less:</i> Amount of depreciation that would have been allowable to the assessee, as if the asset was the only asset in the relevant block. Further, any expenditure incurred by the assessee such as expenditure on freight, installation etc. of such asset would also be includible in the actual cost	
Interest treatment in case of asset acquired out of borrowed fund	Before asset is put to use	Interest to be added to actual cost
	After asset is put to use	Interest is allowed u/s 32
Any subsidies received from the Government or any other authority for purchase of an asset	Grant or subsidies will be subtracted from cost of acquisition of such asset.	
GST included in the invoice	Actual cost of asset shall be reduced by the amount of input tax credit taken against GST (or any other indirect tax)	
Reacquisition of transferred asset	WDV at the time of first transfer or the price paid for reacquisition, whichever is lower	
Asset acquired by an assessee from another person and given on lease to the same person who had earlier claimed depreciation on such asset	WDV of the asset to the transferor	
Building used for personal purpose subsequently brought into business	Cost of purchase or construction of the building as reduced by the notional depreciation by applying the rate applicable on the date of such conversion	
Asset, which was acquired outside India, is brought by a non-resident assessee to India and used for the purposes of his business or profession	Actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee	
Any capital asset transferred by a holding	Actual cost to the transferee company shall be taken to be the same as it would have been if the transferor	

company to its 100% subsidiary company or vice versa where transferee company is an Indian company.	company had continued to hold the capital asset for the purpose of its business
Any capital asset transferred by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company	Actual cost to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purpose of its own business
Any capital asset transferred by the demerged company to the resulting company where the resulting company is an Indian company	Actual cost to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business
Capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India	Actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation
The actual cost of any capital asset on which deduction is allowable u/s 46	Actual cost of the asset shall be taken as nil.
Conversion of inventory into capital asset	Actual cost of such asset to the assessee shall be the fair market value of the inventory as on the date of its conversion into capital asset

#### **Illustration 4**

Dr. R purchased a house property on 1-12-2024 for ₹ 10,00,000. Till 1-12-2026, the same was self-occupied as a residence. On this date, the building was brought into use for the purpose of his medical profession. What would be the depreciation allowable for the tax year 2026-27?

#### **Solution**

In case a building is used for personal purpose subsequently brought into business, the cost of acquisition shall be the purchase or construction cost of the building as reduced by the notional depreciation by applying the rate applicable on the date of such conversion. In the given case cost of asset for the business shall be computed as under:

Particulars	Building
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Rate of depreciation	10%
Cost of building on 1.12.2024	10,00,000
Less: Depreciation (Being used for less than 180 days hence, depreciation charged 50% of normal depreciation i.e. ₹ 10,00,000 * 50% * 10%)	50,000
WDV on 31.3.2025	9,50,000
Less: Depreciation	95,000
WDV on 31.3.2026	8,55,000

Computation of depreciation u/s 33

Cost of building on 1/4/2026	8,55,000
Depreciation for the year 2026-27	85,500
WDV on 01.04.2027	7,69,500

### Depreciation in case of amalgamation, demerger or succession

In the year of -

- Amalgamation;
- Demerger;
- Succession

depreciation u/s 33 shall be apportioned between –

- the amalgamating company and the amalgamated company
- the demerged company and the resulting company
- the predecessor and the successor

- in the ratio of number of days for which the asset was used by them

### Consequence of changes in rate of exchange of currency [Sec. 42]

#### Conditions

1. A Asset has acquired in any tax year from a country outside India;
2. Such acquisition was made on credit or taking loan in foreign currency
3. Subsequently, at the time of making payment / repayment (partly or fully), there is an increase or reduction in the liability of the assessee (as compared to the liability existing at the time of acquisition of the asset)

#### Treatment

The amount by which such liability is increased or reduced shall be added to or deducted from the actual cost (as reduced by depreciation already claimed) of the asset

#### Taxpoint

If such increase or decrease arises after the depreciable asset is transferred (but block exists), then such increase or decrease shall be adjusted in the WDV. If, however, block cease to exist, then such amount shall be treated as capital receipt or expenditure.

## Unabsorbed depreciation [Sec. 33(II)]

Depreciation which could not be fully deducted from profits and gains of current year of business or profession (due to insufficient profit), is termed as unabsorbed depreciation.

**Treatment:** The unabsorbed depreciation can be deducted from income under any other head (except with Casual income and Salaries) of the same tax year.

If depreciation still remain unabsorbed, it can be carried forward for *indefinite period* and can be set off against *any income* (except with Casual income and Salaries) of the assessee.

### Notes

1. It is not necessary that the same business should be continued.
2. For set-off purpose following order is to be followed:
  - Current year depreciation;
  - Brought forward business loss;
  - Unabsorbed depreciation
3. Unabsorbed depreciation shall be (subject to sec. 112 and sec. 113) added to the amount of the depreciation for the following tax year and deemed to be the depreciation-allowance for that tax year, and so on for the succeeding tax years.
4. Unabsorbed depreciation shall be allowed to be carried forward for any number of years and such carried forward unabsorbed depreciation may be set off against any income, other than salary income and winning from lotteries, cross word puzzles, etc.
5. Unabsorbed depreciation can be carried forward even return of income has not been filed.

## Taxation of foreign exchange fluctuation [Sec. 43]

Any gain (or loss), being computed in accordance with the ICDS, arising on account of any change in foreign exchange rates shall be treated as income (or loss).

### Taxpoint:

- Such gain or loss shall arise in respect of all foreign currency transactions, including those relating to:
  - i. monetary items and non-monetary items;
  - ii. translation of financial statements of foreign operations;
  - iii. forward exchange contracts;
  - iv. foreign currency translation reserves
- The provision of sec. 43 is not applicable in respect of cases covered u/s 42 (like computation of actual cost of the asset, etc)

## Amortisation of preliminary expenses [Sec. 44 & Rule 27 / 28]

**Meaning:** Following expenses are known as preliminary expenses -

1. Expenses in connection with –
    - Preparation of project report;
    - Preparation of feasibility report;
    - Conducting market survey or any other survey necessary for the business;
    - Engineering services related to the business.
- Note:** The assessee shall furnish a statement (in Form 5) containing the particulars of aforesaid expenditure incurred within the tax year.
2. Legal charges for drafting any agreement between the assessee and any other person for any purpose related to the setting up or conduct of business of the assessee.
  3. Legal charges for drafting & printing of Memorandum of Association & Articles of Association (in case of company-assessee only).
  4. Registration fees under provisions of the Companies Act, 2013 (in case of company-assessee only).
  5. Expenses in connection with public issue of shares in or debentures of the company being underwriting commission, brokerage & charges for drafting, typing, printing & advertisement of the prospectus (in case of company-assessee only).
  6. Any other prescribed expenditure.

### Tax Treatment

Applicable to	An Indian company or a resident non-corporate assessee. <b>Taxpoint:</b> <i>A foreign company, which is resident in India, is not covered under this section.</i>
Conditions	<ol style="list-style-type: none"> <li>1. Assessee has incurred certain amount as preliminary expense.</li> <li>2. <b><u>Purpose of expense</u></b> <ul style="list-style-type: none"> <li>• Where such expense is incurred before commencement of business then expense must be incurred for setting up a new undertaking or business.</li> <li>• Where such expense is incurred after commencement of business then expense must be incurred in connection with extension of any undertaking or in connection with setting up a new unit.</li> </ul> </li> <li>3. <b><u>Report of a chartered accountant:</u></b> In the case of a non-corporate assessee, an audit report (in form 6) from a chartered accountant should be submitted one month prior to the due date of filing of</li> </ol>

	return relating to the year in which such expenditure was first claimed.	
Total preliminary expense (maximum amount) eligible for deduction	In case of non-corporate resident assessee	5% of the 'cost of project <sup>1</sup> '.
	In case of Indian company	5% of the 'cost of project <sup>1</sup> ' or 'capital employed <sup>2</sup> ', whichever is higher
Amount of deduction	1/5 <sup>th</sup> of the total eligible preliminary expense is allowed in 5 equal annual installments starting from the year in which the business commences, or unit expanded or the new unit commences production or operation.	
Effect of amalgamation or demerger	In case of transfer of undertaking under the scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) shall be entitled to claim deduction u/s 44 for the residual period as if the amalgamation or demerger had not taken place. <b>Note:</b> In the year of amalgamation or demerger, deduction shall be available to amalgamated company or resulting company as the case may be.	

### <sup>1</sup> Cost of Project

**In case of new business:** Actual cost of fixed assets (being land, buildings, leaseholds, plant machinery, furniture, fittings and railway sidings) which are shown in the books of the assessee as on the last day of the tax year in which the business commences.

**In case of an existing business:** Actual cost of fixed assets (being land, building, leaseholds, plant, machinery, furniture, fittings and railway-sidings) which are shown in the books of the assessee as on the last day of the tax year in which the extension of industrial undertaking is completed or new industrial undertaking commences production or operation, in so far as such fixed assets have been acquired or developed in connection with the extension of the industrial undertaking or setting up of the new industrial unit.

### <sup>2</sup> Capital employed

**In case of new business:** The aggregate of issued share capital, debentures & long-term borrowings as on the last day of the tax year in which the business commences.

**In case of existing business:** The aggregate of the issued share capital, debentures and long term borrowings as on the last day of the tax year in which the extension is completed so far as such capital etc. have been issued or obtained in connection with the extension of the business.

## Scientific Research [Sec. 45]

As per sec. 66(27), scientific research means -

- a. any activity for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries
- b. the references to expenditure incurred on scientific research shall include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but does not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research,

and the references to scientific research related to a business or class of business shall include any scientific research—

- i. which may lead to or facilitate an extension of that business or, all businesses of that class;
- ii. of a medical nature which has a special relation to the welfare of workers employed in that business or, all businesses of that class.

Such research can be categorised either as -

In-House research	Research done by the assessee himself (in connection with his business)
Research through outside institutions	Any sum paid to outside agencies, engaged in scientific research, to be used for scientific research

***In-House research***

Revenue expenditure	After commencement of business	Where the assessee himself carries on scientific research related to his business and incurs revenue expenditure, such expenses are allowed as deduction in the year in which such expenditure is incurred by the assessee.
	Before commencement of business	Following revenue expenditures (certified by the prescribed authority) incurred during 3 years immediately before commencement of business, shall be allowed as deduction in the year of commencement of business – <ul style="list-style-type: none"> <li>● Payment of salary to an employee engaged in scientific research (excluding perquisite).</li> <li>● Purchase of materials used for scientific research.</li> </ul>
Capital Expenditure	After commencement of business	Any capital expenditure incurred (other than land) for scientific research, related to the business of the assessee, will be allowed as deduction in full. 100% deduction shall be allowed for such capital expenditure, in the year in which the expenditure is so incurred.

	Before commencement of business	Any capital expenditure incurred (other than land) during 3 years immediately preceding the year of commencement of business shall be deemed to have been incurred in the year in which the business commenced and is allowed as deduction in that year.
	<b>Note:</b> Where a deduction is allowed in any tax year in respect of any capital expenditure for scientific research, no deduction u/s 33 shall be allowed on such assets.	

**Taxpoint:**

- In-house research for a purpose not related to the business of the assessee shall not be allowed as deduction.
- Capital expenditure incurred on scientific research which cannot be absorbed by the business profits of the relevant tax year can be carried forward to the immediately succeeding tax year and shall be treated as the allowance for that year. In effect, this means that there is no time bar on the period of carry forward. It shall be accordingly allowable for that tax year against any head of income other than salaries and casual income

**In house research & development expenses by certain companies [Sec. 45(2)]**

<b>Applicable to</b>	Company engaged in the business of bio-technology or any business of manufacture or production of any article or thing (other than those specified in the 13 <sup>th</sup> Schedule)
<b>Conditions to be satisfied</b>	<ol style="list-style-type: none"> <li>1. The expenditure shall be incurred on in-house scientific research and development facility including capital expenditure (other than <b>land or building</b>).</li> <li>2. In-house research and development facility shall be approved by the Secretary, Department of Scientific and Industrial Research [application in Form 11 – Rule 29].</li> <li>3. The assessee must enter into an agreement with the prescribed authority -                     <ol style="list-style-type: none"> <li>i. for co-operation in such research and development facility; and</li> <li>ii. fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed.</li> </ol> </li> </ol>
<b>Deduction</b>	100% of the expenditure incurred <input type="checkbox"/> If conditions are not satisfied, then deduction is available u/s 45(1). <input type="checkbox"/> No deduction u/s 33 shall be allowed on such asset.

**Research through outside institutions [Available only under the old regime]**

100% deduction shall be allowed in respect of contributions made to the following:

Institution	Purpose
Any payment to National Laboratory <sup>1</sup> or a University or Indian Institute of Technology or a specified person.	Scientific research undertaken under programme approved by the prescribed authority (whether related to business or not)
Any payment made to a notified (by the Central Government) research association or to an approved university, college or other institutions <sup>3</sup>	Scientific research (whether related to business or not)
Any payment made to a notified (by the Central Government) research association, university, college or other institution <sup>3</sup>	Research in Social science or Statistical Research (whether related to business or not)
Any payment to an approved Indian company (main object of whom is scientific research & development) <sup>3</sup>	Scientific research (whether related to business or not)

<sup>1</sup> *National laboratory* means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as National Laboratory by the prescribed authority.

<sup>2</sup> Such association, University, college or institution must be approved in accordance with prescribed guidelines and must be notified by the Central Government.

<sup>3</sup> The deduction in respect of any sum paid to the research association, university, college or other institution or company shall be allowed on the basis of a certificate issued by the donee.

#### **Other points**

1. Such association, University, college or institution must be approved in accordance with prescribed guidelines and must be notified by the Central Government.
2. **Withdrawal of approval**: Deduction shall not be denied merely on the ground that subsequent to the payment made by the assessee, the approval granted to the association, university, IIT, etc. has been withdrawn.
3. **Carry forward of unabsorbed scientific research expenditure**: Unabsorbed capital expenditure can be carried forward for unlimited years and set off in any subsequent tax year(s) like unabsorbed depreciation.
4. **Effect of amalgamation**: Provisions of sec. 45 shall apply to the amalgamated company, as it would have been applied to the amalgamating company, if the latter had not transferred such asset.

#### **Sale of asset used for scientific research [Sec. 38(l)(c)]**

Without having been used for other purpose	<ul style="list-style-type: none"> <li>➤ Sale consideration to the extent of cost of such asset shall be taxable as business income in the year of sale.</li> <li>➤ The excess of sale consideration over original cost is taxable as capital gain u/s 67.</li> <li>➤ This is applicable even if the business is not in existence in that year)</li> </ul>
After being used for other purposes	<ul style="list-style-type: none"> <li>➤ Sale consideration shall be subtracted from relevant block of assets.</li> <li>➤ At the time of conversion of scientific research asset into normal business asset, the cost of acquisition shall be taken as nil in the relevant block.</li> </ul>

### Deduction in respect of expenditure on specified business [Sec. 46]

In case of an individual/HUF/AoP/BoI carrying on specified business, deduction u/s 46 would be available only if they are paying tax under the **old tax regime**. On the other hand, a company would not be eligible for deduction u/s 46, if it opts for the special provisions of taxation

<b>Applicable to</b>	<p>Specified assessee engaged in the business of:</p> <ol style="list-style-type: none"> <li>a. setting up and operating a cold chain facility<sup>##</sup>;</li> <li>b. setting up and operating a warehousing facility for storage of agricultural produce; or</li> <li>c. laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network</li> </ol> <p><b>Note:</b> The project has been approved by the Petroleum and Natural Gas Regulatory Board and being notified by the Central Government.</p> <ol style="list-style-type: none"> <li>d. building and operating, anywhere in India, a hotel of two-star or above category as classified by the Central Government;</li> <li>e. building and operating, anywhere in India, a hospital with at least 100 beds for patients;</li> <li>f. developing and building a notified housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government (or a State Government)</li> <li>g. developing and building a notified housing project under a scheme for affordable housing framed by the Central Government (or a State Government)</li> <li>h. production of fertilizer in India;</li> </ol>
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	<p><b>Note:</b> The deduction shall also be allowed for a newly installed capacity in an existing plant for production of fertilizers.</p> <p>i. setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;</p> <p>j. bee-keeping and production of honey and beeswax;</p> <p>k. setting up and operating a warehousing facility for storage of sugar</p> <p>l. laying and operating a slurry pipeline for the transportation of iron ore</p> <p>m. setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed</p> <p>n. developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility by an Indian company (or consortium thereof) / authority / board / corporation having agreement with Central Government or State Government or local authority or any statutory body</p>		
<b>Conditions to be satisfied</b>		Cross-country natural gas / oil pipeline	Other Business
	<b>Owned by</b>	An Indian company or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central/State Act	Any assessee
	<b>Date of commencement of business</b>	For natural gas pipeline: On or after 01-04-2007 For Other: On or after 01-04-2009	<i>On or after date given in Note<sup>‡</sup> below</i>

<sup>‡</sup> *Date of commencement of business (on or after)*

Warehousing facility for storage of agricultural produce	Hotel 01-04-2010	Slum redevelopment 01-04-2010	Fertilizer 01-04-2011	Inland container depot 01-04-2012	Warehousing facility for storage of Sugar 01-04-2012
01-04-2009	Hospital 01-04-2010	Affordable housing 01-04-2011	Cold chain facility 01-04-2009	Bee-keeping 01-04-2012	
Slurry pipeline for transportation of iron-ore 01-04-2014		semi-conductor wafer fabrication manufacturing unit 01-04-2014		Infrastructure facility 01-04-2017	

	<b>Restriction on usage</b>	It has made not less than such proportion of its total pipeline capacity as specified by the Petroleum and Natural Gas Regulatory Board <sup>b</sup> available for use on common carrier basis by any person other than the assessee or an associated person <sup>#</sup> .	No Restriction
	<b>New Business</b>	Such business should not be set up by splitting up, or the reconstruction, of a business already in existence.	
	<b>New Plant Machinery</b>	Such business should not be set up by the transfer to the specified business of machinery or plant previously used for any purpose <b>Exceptions</b> <b>(i)</b> A plant or machinery is deemed as new asset if: <b>a.</b> Such plant or machinery is imported into India; <b>b.</b> Depreciation on such asset has not been allowed under this Act to any person; and <b>c.</b> The assessee was the first user of such asset in India. <b>(ii)</b> Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.	
	<b>Audit</b>	Books of account should be audited by a Chartered Accountant	
<b>Quantum of deductions</b>	100% of capital expenditure incurred during the tax year, wholly and exclusively, for the purposes of any specified business. <b>Capital Expenditure shall not include the following:</b> a) Any expenditure incurred on the acquisition of any land or goodwill or financial instrument b) Any expenditure in respect of which the payment (or aggregate of payments made to a person in a day), otherwise than by specified banking or online mode, exceeds ₹ 10,000		

	<p><b>Pre-commencement expenditure:</b> Where the expenditure is incurred prior to the commencement of its operations which has been capitalised in the books of account of the assessee on the date of commencement of its operations, shall be allowed as deduction in the tax year in which the assessee commences such business.</p>						
<p><b>Other Points</b></p>	<ul style="list-style-type: none"> <li>✳ <b>Option:</b> The deduction under this section is optional in nature. For claiming deduction under this section, assessee is required to claim the same.</li> <li>✳ <b>No Double Deduction:</b> No deduction for such expenditure shall be allowed to the assessee under any other section in any tax year or under this section in any other tax year. Further, the assessee shall not be allowed any deduction under chapter VIII in respect of the specified business for the same or any other tax year.</li> <li>✳ <b>Restriction of use of the asset:</b> Any asset in respect of which a deduction is claimed and allowed under this section shall be used only for the specified business, for a period of 8 years beginning with the tax year in which such asset is acquired or constructed.</li> </ul> <p><b><u>Consequences of usage of asset otherwise than for specified purpose:</u></b> Where such asset is used for a purpose other than the specified business during that period, then following amount shall be deemed to be the income of the assessee chargeable under the head “Profits and gains of business or profession” of the tax year in which the asset is so used:</p> <table border="1" data-bbox="380 1075 1116 1321"> <tr> <td data-bbox="380 1075 1046 1161">The total amount of deduction so claimed and allowed in one or more tax years</td> <td data-bbox="1046 1075 1116 1161">***</td> </tr> <tr> <td data-bbox="380 1161 1046 1272"><i>Less:</i> Depreciation allowable in accordance with the provisions of sec. 33, as if no deduction under this section was allowed</td> <td data-bbox="1046 1161 1116 1272">***</td> </tr> <tr> <td data-bbox="380 1272 1046 1321" style="text-align: center;"><b>Deemed Income</b></td> <td data-bbox="1046 1272 1116 1321">***</td> </tr> </table> <p>However, the provision of reversal of deduction shall not be applied to a company which has become a sick industrial company u/s 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, during that period.</p> <ul style="list-style-type: none"> <li>✳ <b>Actual cost of asset for depreciation:</b> The actual cost of any capital asset for the purpose of computing depreciation, on which deduction has been allowed to the assessee u/s 46, shall be treated as ‘nil’.</li> </ul>	The total amount of deduction so claimed and allowed in one or more tax years	***	<i>Less:</i> Depreciation allowable in accordance with the provisions of sec. 33, as if no deduction under this section was allowed	***	<b>Deemed Income</b>	***
The total amount of deduction so claimed and allowed in one or more tax years	***						
<i>Less:</i> Depreciation allowable in accordance with the provisions of sec. 33, as if no deduction under this section was allowed	***						
<b>Deemed Income</b>	***						

	<p>❖ <b>Treatment of Realisation:</b> If the whole of the expenditure on capital asset has been allowed as a deduction u/s 46, any sum received or receivable (in cash or kind) on account of such capital asset being demolished, destroyed, discarded or transferred shall be taxable as business income.</p> <p>❖ <b>Inter-unit transfer:</b> Where -</p> <ol style="list-style-type: none"> <li>1. Assessee carries on at least two units</li> <li>2. Out of such units at least one is eligible u/s 46 and at least one is not eligible for exemption</li> <li>3. Goods or services are transferred from eligible unit to any non eligible unit or vice versa</li> <li>4. The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer</li> </ol> <p>then, deduction shall be computed as if the transfer, in either case, had been made at the market value<sup>§</sup> of such goods or services as on that date.</p>
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# An “associated person”, in relation to the assessee, means a person:

- a. who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;
- b. who holds, directly or indirectly, 26% of equity share capital of the assessee;
- c. who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee (it is to be noted that appointing power does not suffice the purpose); or
- d. who guarantees not less than 10% of the total borrowings of the assessee;

## “Cold chain facility” means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce.

§ Market value in relation to any goods or services

Case	Market value means
Sold or supplied	The price that such goods or services would fetch if these were sold by the unit in the open market, subject to statutory or regulatory restrictions, if any
Acquired	The price that such goods or services would cost if these were acquired by the unit from the open market, subject to statutory or regulatory restrictions, if any.

<sup>β</sup> The Petroleum and Natural Gas Regulatory Board has specified following conditions for common carrier:

Particulars	Following proportion of total pipeline capacity should be available for use on common carrier basis by any person other than the assessee or an associated person
Natural gas pipeline network	1/3 <sup>rd</sup> of total pipeline capacity
Petroleum product pipeline network	1/4 <sup>th</sup> of total pipeline capacity

“Infrastructure facility” means:

- (i) a road including toll road, a bridge or a rail system;
- (ii) a highway project including housing or other activities being an integral part of the highway project;
- (iii) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;
- (iv) a port, airport, inland waterway, inland port or navigational channel in the sea

### Agricultural extension & Skill Development project [Sec. 47]

- Any expenditure (excluding cost of any land or building) incurred, on—
  - (a) notified agricultural extension project<sup>§</sup> by any assessee [Rule 38]; or
  - (b) notified skill development project by a company [Rule 39],
 shall be allowed as a deduction, in the tax year in which such expenditure is incurred
- Double deduction is not permissible

### Tea / Coffee / Rubber Development Account [Sec. 48 and Schedule IX]

Available only under the old regime

Applicable to	All assessee carrying on business of growing and manufacturing of the followings in India: <b>b. Tea;                                  c. Coffee; or                                  d. Rubber</b>
Conditions to be satisfied	<p>1. <b>Deposit of amount:</b> Assessee must deposit (hereinafter referred to as special account) an amount in:</p> <ul style="list-style-type: none"> <li>• National Bank for Agriculture &amp; Rural Development (NABARD) in an account maintained by him in accordance with, and for the purpose specified in the scheme approved by Tea Board, Coffee Board or Rubber Board, as the case may be; or</li> <li>• An account in accordance with, and for the purpose specified in a scheme approved by Tea Board or Coffee Board or Rubber Board,</li> </ul>

<sup>§</sup> Available only under old tax regime

	<p>as the case may be, with prior approval of the Central Government.</p> <p>2. <b>Time of deposit:</b> The amount must be deposited within 6 months from the end of the tax year or before the due date of furnishing the return of income, whichever is earlier.</p> <p>3. <b>Audit of accounts:</b> Accounts of assessee should be audited by a chartered accountant &amp; the report of an auditor in Form 182 (Rule 290] is required to be uploaded one month prior to the due date of filing of return</p> <p><b>Note:</b> In case, where the assessee is required under any other law to get his accounts audited, it shall be sufficient compliance if such assessee gets the accounts audited under such law and furnishes the report in Form 182.</p>
Quantum of Deduction	<p>Minimum of the following -</p> <p>a) Amount so deposited (as discussed above); or</p> <p>b) 40% of the profit of such business computed under the head “Profits &amp; gains of business or profession” before allowing any deduction u/s 48 and before adjusting brought forward business loss.</p>

### **Other points**

1. **Excess Deposit:** Any excess deposit made during a tax year is not treated as deposit made for the next year(s).
2. **Restriction on utilisation of amount for certain purposes:** No deduction shall be allowed in respect of any amount, being credited in special account, utilised for the purpose of:
  - Purchase of plant or machinery to be installed in any office premises / residential accommodation / accommodation in the nature of guest-house.
  - Purchase of any office appliances (other than computer)
  - Purchase of any plant or machinery, the entire cost of which is allowed as deduction in form of depreciation or otherwise in any one tax year.
  - Purchase of any plant or machinery to be installed in an industrial undertaking for constructing, manufacturing or producing any items specified in Schedule XIII of the Act.

**Note:** If any amount is so utilised, then the whole of such amount so utilised shall be deemed to be the profits and gains of business of the tax year in which such misutilisation takes place.
3. **Withdrawal from account:**

**During continuation of business:** The amount credited to such special account shall be withdrawn only for the purpose(s) specified in respective schemes.

If the amount so withdrawn is not utilised for the specified purpose *in the same tax year* then the amount not so utilised shall be treated as income of the year.

**On closure of business:** Apart from the specified purpose(s) of scheme, the amount deposited may be withdrawn in the following circumstances: -

<u>Case</u>	<u>Tax Treatment</u>
Closure of business <sup>#</sup>	Fully taxable
Dissolution of firm <sup>#</sup>	Fully taxable
Death of the tax payer <sup>§</sup>	Not taxable
Partition of Hindu Undivided Family <sup>§</sup>	Not taxable
Liquidation of company <sup>§</sup>	Not taxable

<sup>#</sup> The amount withdrawn shall be taxable under the head "Profits & gains of business or profession" as if the business is continued or the firm had not been dissolved.

<sup>§</sup> It is not taxable even though the amount has not been utilised for any of the purposes specified in the scheme.

**4. Double deduction is not permissible**

- Where an amount standing to the credit of the assessee in the special account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme, then such expenditure shall not be allowed in computing the income chargeable under the head 'Profit and gains of business or profession'.
- Where the assessee is a firm, AOP or BOI, then deduction under this section shall not be allowed in computation of income of any partner/member.
- Where any deduction in respect of an amount deposited in any special account has been allowed in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

**5. Restriction on sale of new asset:** If any asset is acquired as per the scheme, then such asset cannot be sold or transferred within 8 years from the end of the tax year in which it was acquired. If such asset is sold or otherwise transferred, then such part of the cost of such asset as is relatable to the deduction allowed earlier under this section will be treated as profit.

However, in the following cases, above provision shall not be applicable -

- Sale or transfer to the Government, local authority, statutory corporation or Government company.
- Sale or otherwise transfer, in connection with the succession of a firm by a company, provided the following conditions are satisfied –
  - a. All assets & liabilities of firm (immediately before succession) become the assets & liabilities of the company.
  - b. All shareholders of the company were partners of the firm immediately before the succession.
  - c. The scheme continues to apply to the company in the manner applicable to the firm.

**6. Calculation of taxable income**

Nature of Business – Rule 271	Calculation of Income
Tea growing & manufacturing business	40% of [Income from business – Deduction u/s 48]
Coffee growing & manufacturing business	25% / 40% of [Income from business – Deduction u/s 48]
Rubber growing & manufacturing business	35% of [Income from business – Deduction u/s 48]

### Site Restoration Fund [Sec. 49 & Schedule X]

Available only under the old regime

Applicable to	All assessee engaged in the business of - <ul style="list-style-type: none"> <li>• Prospecting for petroleum or natural gas; or</li> <li>• Extraction or production of petroleum or natural gas; or</li> <li>• Both</li> </ul> - in India.
Conditions to be satisfied	<ol style="list-style-type: none"> <li>1. <b><u>Agreement with the Central Government:</u></b> The Central Government has entered into an agreement with the assessee for such business.</li> <li>2. <b><u>Deposit of amount:</u></b> The assessee must deposit an amount -                             <ul style="list-style-type: none"> <li>• With the State Bank of India in an account (herein after referred to as special account) maintained</li> <li>• in an account (hereinafter referred as Site Restoration Account) opened by the assessee</li> </ul>                             - in accordance with and for the purposes specified in a scheme approved by the Government of India in the Ministry of Petroleum &amp; Natural Gas.  <b><u>Treatment of interest:</u></b> Any amount credited in the special account or site restoration account by way of interest shall be deemed to be a deposit.                         </li> <li>3. <b><u>Time of deposit:</u></b> Such amount must be deposited before the end of the tax year.</li> <li>4. <b><u>Audit of books of account:</u></b> Accounts must be audited &amp; auditor's report should be filed in Form 183 (Rule 291) is required to be uploaded one month prior to the due date of filing of return  <b><u>Note:</u></b> In case, where the assessee is required under any other law to get his accounts audited, it shall be sufficient compliance if such assessee gets the accounts audited under such law and                         </li> </ol>

	furnishes the report of audit required under such other law and a report in Form 183.
Quantum of Deduction	Minimum of the following: <b>a.</b> Amount so deposited (as discussed above); or <b>b.</b> 20% of the profit of such business computed under the head “Profits & gains of business or profession” before allowing deduction under this section and before adjusting brought forward business loss.

**Other points**

- Excess Deposit:** Any excess deposit made during a tax year is not treated as deposit made for the next year(s).
- Restriction on utilisation of amount for certain purposes:** No deduction shall be allowed in respect of any amount, being credited in special account or site restoration account, utilised for the purpose of -
  - Purchase of plant and machinery to be installed in any office premises / residential accommodation / accommodation in the nature of guest-house.
  - Purchase of office appliances (other than computer)
  - Purchase of a plant or machinery, the entire cost of which is allowed as deduction in the form of depreciation or otherwise in computation of business income of any one tax year.
  - Purchase of a plant or machinery to be installed in an industrial undertaking for constructing, manufacturing or producing any items specified in Schedule XIII of the Act.

**Note:** If any amount is so utilised, then the whole of such amount shall be deemed to be the profit and gains of business of the tax year in which such mis-utilisation takes place

**3. Withdrawal from account**

**During continuation of business:** The amount credited to such special account or the site restoration account shall be withdrawn only for the purpose(s) specified in respective scheme.

If the amount withdrawn in a year is not utilised for the specified purpose in the same tax year then the amount not so utilised shall be treated as income of the year.

**On closure of account:** Where any amount standing to the credit of the assessee in the special account or in the site restoration account is withdrawn on closure of the account during any tax year, the following amount shall be deemed to be the profits & gains of business or profession (whether business is continued or not) -

<u>Particulars</u>	<u>Amount</u>
Amount so withdrawn from the account	****
Less: Amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement u/s 54	(****)

## Taxable amount

\*\*\*\*

**Note:** In case of closure of business, the amount stated above shall be taxable as if the business is in existence.

**4. Double deduction is not permissible**

- Where any amount standing to the credit of the assessee in the special account or site restoration account is utilised by the assessee for the purpose of any expenditure in connection with such business in accordance with the scheme, then such expenditure shall not be allowed in computing the income chargeable under the head 'Profit and gains of business or profession'.
- Where the assessee is a firm, AOP or BOI, the deduction under this section shall not be allowed in the computation of the income of any partner/member.
- Where any deduction in respect of any amount deposited in any special account or site restoration account has been allowed in any tax year, then no deduction shall be allowed in respect of such amount in any other year.

**5. Restriction on sale of such asset:** If any asset is acquired as per the scheme, then such asset cannot be sold or transferred within 8 years from the end of the tax year in which it was acquired. If such asset is sold or otherwise transferred, then such part of the cost of the asset as is relatable to the deduction allowed shall be treated as taxable profit under the head "Profits & gains of business or profession", in the year in which the asset is transferred. However, in the following cases, the provision shall not be applicable -

- Sale or otherwise transfer to the Government, local authority, statutory corporation or Government Company.
- Sale or otherwise transfer, in connection with the succession of a firm by a company, subject to following conditions:
  - a. All assets and liabilities of the firm, immediately before the succession became assets and liabilities of the company.
  - b. All the shareholders of the company were the partners of the firm immediately before succession.
  - c. The scheme continues to apply to the company in the manner applicable to the firm

**Provision in case of trade, profession or similar association [Sec. 50]**

<b>Applicable to</b>	"Specified Association" (Trade/Professional) that does not distribute its income to members.
<b>Condition</b>	If the expenditure incurred solely for the common interest of members is greater than the receipts from members, the shortfall (deficiency) is allowed as a deduction.

<b>Order of Set-off</b>	Deduct first from PGBP (after adjusting b/f losses). Balance can be deducted from any other head of income.
<b>Exclusion</b>	<ul style="list-style-type: none"> <li>➤ Excludes remuneration received for rendering specific services to members.</li> <li>➤ Excludes Capital Expenditure and any expenses already deductible under other sections.</li> </ul>
<b>Maximum Cap</b>	The deduction is strictly restricted to a max. of 50% of Total Income (before this deduction).

### Amortisation of expenditure for prospecting certain minerals [Sec. 51]

<b>Applicable to</b>	Any Indian company and any other resident assessee.
<b>Conditions to be satisfied</b>	<ol style="list-style-type: none"> <li>1. Assessee is engaged in operations relating to prospecting for or extraction or production of mineral specified in Schedule XII.</li> <li>2. Expenditure has been incurred by the assessee on -             <ol style="list-style-type: none"> <li>a. Prospecting for any mineral specified in Schedule XII; or</li> <li>b. Development of a mine or other natural deposit of any such mineral.</li> </ol> <p><i>Period during which expenditure is incurred:</i> Expenditure incurred during following period shall qualify for deduction -</p> <ul style="list-style-type: none"> <li>☼ In the tax year in which commercial production commences; and</li> <li>☼ At any time during the period of 4 years preceding the year in which commercial production commences.</li> </ul> <p><i>Expenditures which are not qualified for deduction:</i> Following expenditures do not qualify for deduction:</p> <ul style="list-style-type: none"> <li>☼ Expenditure on acquisition of site or any right in or over such site; or</li> <li>☼ Expenditure on acquisition of deposits of mineral or any rights in or over such deposits;</li> <li>☼ Expenditure of capital nature (being building, plant, machinery or furniture) in respect of which depreciation allowance is admissible u/s 33.</li> <li>☼ Any expenditure which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realized by the assessee in respect of any property or rights brought into existence as a result of the expenditure shall be excluded.</li> </ul> </li> </ol>

	<p>3. In case of a non-corporate assessee, accounts of the assessee, for the year(s) in which the expenditure is incurred, have been audited by a chartered accountant and the audit report in Form 6 (Rule 28) (electronically) must be uploaded one month prior to the due date of filing of the return of income of the first year in which deduction is claimed.</p>
<p><b>Quantum of Deduction</b></p>	<p>Total eligible expenditure shall be allowed in 10 equal installments from the year of commercial production. However, deduction in a tax year cannot exceed income (before making deduction under this section) of the tax year arising from the commercial exploitation of <i>any</i> mine(s)</p> <p><i>Treatment of unabsorbed amount:</i> The unabsorbed amount of installment relating to any tax year can be carried forward and added to the installment of the succeeding year.</p> <p>In this manner, unabsorbed amount can be carried forward maximum up to the 10<sup>th</sup> tax year commencing from the year when commercial production starts.</p>

### **Taxpoint**

- ✿ In case of transfer of undertaking (of an Indian company) in a scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) shall be entitled to claim deduction u/s 51 for the residual period as if no amalgamation or demerger had taken place.
- No deduction shall be allowed to amalgamating company or demerged company in the tax year in which amalgamation or demerger takes place.
- ✿ No deduction shall be allowed in respect of such expenditure under any other provisions of this Act.

### **Amalgamation or demerger Expenses [Sec. 52 Table S. No. 1]**

**Applicable to:** An Indian company

#### **Conditions**

1. Assessee has incurred certain expenditure wholly & exclusively for the purpose of amalgamation or demerger.
2. No deduction has been claimed for such expenses under any other section.

**Quantum of deduction:** 1/5<sup>th</sup> of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes places.

### **Amortisation of expenditure incurred under VRS [Sec. 52 Table S. No. 2]**

**Applicable to:** All assessee

**Condition:** Assessee has incurred any expenditure, by way of compensation to employees in connection with their voluntary retirement.

**Quantum of deduction:** 1/5<sup>th</sup> of expenditure so incurred for a period of 5 years commencing from the year in which payment was made.

**Effect of amalgamation or demerger:** In case of transfer of undertaking under the scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) as the case may be, shall be entitled to claim this deduction for the residual period as if the amalgamation or demerger had not taken place.

**Effect of succession of business:** Where there has been reorganisation of business, whereby a firm or proprietary concern is succeeded by a company fulfilling the specified conditions or a private company or unlisted public company is succeeded by a limited liability partnership fulfilling specified conditions, the provisions of this section shall apply to the successor concern, as they would have applied to the predecessor, if reorganisation of business had not taken place. Further, it is to be noted that:

- a) No deduction shall be allowed to amalgamating company, demerged company, a firm, proprietary or other concern in the tax year in which amalgamation, demerger or succession, as the case may be, takes place.
- b) No deduction shall be allowed in respect of such expenditure under any other provisions of the Act.

### Amortisation of telecom-licence fee & spectrum fee [Sec. 52 Table S. No. 3/4]

Applicable to	All assessee	
Conditions to be satisfied	<p>a) Assessee has incurred capital expenditure for acquiring any right to operate telecommunication services.</p> <p>b) Payment for such expenditure has actually been made.</p> <p><b>Notes</b></p> <p>1. Such expenditure may be incurred before or after commencement of business.</p> <p>2. Revenue expenditure incurred relating to telecom licence fee shall not be eligible for deduction under this section. However, assessee can claim deduction u/s 34 for such expenditure.</p>	
Deduction	Actual expenditure incurred and <i>paid</i> shall be allowed as deduction in equal installments over the period for which the license remains in force starting from the year as under -	
	<b>Case</b>	<b>Period starts from</b>

	Where the license-fee is paid before the commencement of business.	The tax year in which such business commenced.
	When license is acquired after commencement of business	The tax year in which license fee has been actually paid.
	In any other case	
<b>Note:</b> No depreciation is allowed on such capital expenditure.		

#### **Where such license is sold in full**

- Loss on sale shall be deductible as business loss in the year of sale.
- Profit on sale, to the extent of aggregate of deduction allowed in preceding year(s) shall be treated as business income.

**Capital gain treatment:** The excess of sale consideration over original cost is taxable as capital gain u/s 67.

#### **Where such licence is transferred in a scheme of amalgamation or demerger**

The amalgamated company or resulting company (being Indian company) as the case may be shall be entitled to claim deduction for the residual period as if the amalgamating or demerged company had not transferred the licence.

### **Other Deduction u/s 32**

Following deduction are available u/s 32

#### **Bonus or commission to employees [Sec. 32(a)]**

Any bonus or commission (other than in lieu of profit or dividend) *paid*<sup>1</sup> to employees shall be allowed as deduction.

<sup>1</sup> Such amount must have been actually paid before the due date of furnishing return [Sec. 37]

#### **Interest on borrowed capital [Sec. 32(b)]**

Interest expenses incur in respect of capital borrowed for the purposes of business or profession shall be allowed as deduction, if following conditions are satisfied -

- The assessee must have borrowed money.
- The money so borrowed must have been used for the purpose of business or profession during the tax year.
- The assessee must have incurred interest on the borrowed amount.

#### **Taxpoint**

Interest on borrowings made for acquiring & installing assets shall be treated as under:

Interest for the period	Treatment of interest
Prior to commencement of business	Interest is to be added to actual cost of the asset
After commencement of business but before asset is put to use	
After asset is put to use	Interest is allowed u/s 32(b)

**Contribution to Credit Guarantee Fund Trust [Sec. 32(c)]**

Contributions made by public financial institutions to the notified credit guarantee fund trust for small industries shall be allowed

**Discount on issue of Zero Coupon Bonds (ZCB) [Sec. 32(d)]**

As per sec. 2(112), “zero Coupon Bond” means a bond—

- issued by any infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank on or after 1/6/2005;
- for which no payment and benefit is received or receivable before maturity or redemption from the issuer; and
- which the Central Government may notify.

**Treatment:** Discount on issue of Zero Coupon Bonds shall be allowed on pro rata basis having regard to the period of life of such bond.

**Deduction in respect of Special Reserve [Sec. 32(e)]**

Deduction is allowed in respect of any special reserve created and maintained by a specified entity in respect of reserve created from the specified business. The amount of deduction shall be least of the following:

- a. Amount transferred to the reserve account during the tax year; or
- b. 20% of the profits (before this deduction) derived from the eligible business; or
- c. twice the amount of the paid-up share capital and the general reserve.

**Notes**

Meaning of specified entity and specified business

Specified Entity	Specified Business means the business of providing long-term finance for
A financial corporation u/s 2(72) of the Companies Act, 2013 or a financial corporation which is a public sector company or a banking company or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank	a) industrial or agricultural development; b) development of infrastructure facility in India; or

	c) development of housing in India
A housing finance company	Construction or purchase of houses in India for residential purposes.
Any other financial corporation including a public company	Development of infrastructure facility in India
Long-term finance means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than 5 years – sec. 66(10)	

**Treatment on withdrawal from Special Reserve Account**

As per sec. 38(1)(e), if a deduction has been allowed in respect of any special reserve created under this section, any amount subsequently withdrawn from such special reserve shall be deemed to be profits or gains of business or profession and shall be taxable in the year of such withdrawal.

**Expenditure incurred by a corporation or a body corporate [Sec. 32(f)]**

Any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

- (a) it is constituted or established by a Central, State or Provincial Act;
- (b) such corporation or body corporate, having regard to the objects and purposes of the respective Act is notified by the Central Government in the Official Gazette for the purposes of this clause; and
- (c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;

- shall be allowed as deduction.

**Purchase of Sugarcane [Sec. 32(g)]**

The amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government shall be allowed.

**Loss as per ICDS [Sec. 32(h)]**

Marked to market loss or other expected loss as computed in accordance with the ICDS notified u/s 276(2) shall be allowed.

**Expenditure on promotion of family planning among employees [Sec. 32(i)]**

**Applicable to:** Company only

Purpose of such expenditure: Such expenditure must have been incurred for promotion of family planning among its employees.

Quantum of Deduction

- *Revenue expenditure* is fully allowed as deduction.
- *Capital expenditure* shall be allowed in 5 equal installments commencing from the tax year in which it is incurred.

Note: Where deduction is allowed in respect of any expenditure under this section then no deduction shall be allowed u/s 33 or any other provisions of this Act.

Treatment of unabsorbed capital expenditure: As in case of unabsorbed depreciation.

Sale of assets acquired for family planning: Treated in the same manner as in case of sale of assets used for scientific research.

**Allowance in respect of dead or useless animals [Sec. 32(j)]**

Sec. 32(j) provides for deduction in respect of animals used for the purpose of business or profession.

Conditions

- a) Animals are used for the purpose of business or profession.
- b) Such animals are not held as stock-in-trade.
- c) Such animals have died or become permanently useless for such purpose.

Quantum of deduction

Difference between actual cost of the animals to the assessee and the amounts realised, if any, in respect of carcasses or sale of animals is allowed as deduction.

**Securities Transaction Tax and Commodities Transaction Tax [Sec. 32(k)]**

Any amount of Securities Transaction Tax (STT) or Commodities Transaction Tax (CTT) paid by the assessee during the tax year shall be allowed as deduction provided income arising from such transactions is included in the income computed under the head "Profits and gains of business or profession."

**General deductions [Sec. 34]**

Any expenditure which is not specifically provided in any provisions (discussed earlier) of the Act and fulfills following conditions, shall be allowed as deduction under this section -

1. It must be real and not notional, fictitious or in lieu of distribution of profit.
2. It must be expended wholly & exclusively for the purpose of business or profession carried on by the assessee.
3. It must have been incurred in the tax year.
4. It must not be a personal expenditure.
5. It must not be a capital expenditure.

6. It must be lawful and not have been incurred for any purpose, which is an offence or prohibited, under any law.
- It also includes the expenditure incurred by an assessee:
    - i. for any purpose which is an offence or prohibited by any law for the time being in force, in India or outside India; or
    - ii. to provide any benefit or perquisite to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person [see Taxpoint 3 given below]; or
    - iii. to compound an offence under any law for the time being in force, in India or outside India.
    - iv. to settle proceedings initiated in relation to contravention under such law

**Taxpoint:**

1. **Advertisement in political publication:** It shall not be any advertisement expenditure incurred in any souvenir, brochure, tract, pamphlet, or similar publication issued by a political party
2. **Corporate Social Responsibility:** Any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall **not** be deemed to be an expenditure incurred by the assessee (as it is application of income) for the purposes of the business or profession.  
However, CSR expenditure, which is of the nature described in sec. 28 to 33, 44 to 49, 51, 52 and 133 shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein
3. The claim of any expense incurred in providing any Gift, Travel facility, Hospitality, Cash or monetary grant or similar freebies in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 shall be inadmissible u/s 37(1) of the Income Tax Act being an expense prohibited by the law. This disallowance shall be made in the hands of such pharmaceutical or allied health sector Industries or other assessee which has provided said freebies and claimed it as a deductible expense in its accounts against income. Further, the sum equivalent to value of freebies enjoyed by the aforesaid medical practitioner or professional associations is also taxable as business income or income from other sources as the case may be. [Circular 05/2012 dated 01-08-2012]
4. Any expenditure incurred to settle proceedings initiated in relation to contravention or defaults under the following laws shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure, namely:—
  - (a) the Securities and Exchange Board of India Act, 1992
  - (b) the Securities Contracts (Regulation) Act, 1956

- (c) the Depositories Act, 1996
- (d) the Competition Act, 2002.

### **Disallowed Expenditure [Sec. 35]**

Following expenditures are expressly disallowed:

#### **Income tax [Sec. 35(a)]**

- Tax paid on income (including surcharge and cess); or
- Tax paid by employer on non-monetary perquisites (including surcharge and Cess); or
- Tax paid in any other country for which relief is eligible u/s 159 or 160 [DTAA Relief]

**Taxpoint:** Interest on delayed payment of income tax is also deductible.

#### **Any sum payable to a resident on which TDS provision is applicable [Sec. 35(b)(i)]**

30% of any sum payable to a resident on which tax is deductible at source under Chapter XIX-B if:

Such tax:

- has not been deducted; or
- after deduction, tax has not been paid on or before the due date of furnishing return of income u/s 263(1)

#### **Taxpoint**

1. Where such tax has been deducted in any subsequent year, or tax has been paid after the due date of furnishing return of relevant tax year, then the amount disallowed earlier (i.e., 30% portion) shall be allowed as deduction in the following tax year

Where such tax has been deducted in any subsequent year	Disallowed amount shall be allowed as a deduction in computing the income of the tax year in which such tax has been paid
Where such tax has been deducted in the relevant tax year but tax has been paid after the due date of furnishing return of relevant tax year	

2. Where an assessee fails to deduct the whole or any part of the tax but is not deemed to be an assessee in default u/s 398(2), then, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee.
  - ❖ This relaxation is not available where the payer has deducted tax but fails to deposit such tax to the credit of the Central Government.
  - ❖ As per sec. 398(2), the payer is not deemed as an assessee in default:
    - i. Such resident recipient has furnished his return of income u/s 263
    - ii. Such resident recipient has taken into account such sum for computing income in such return of income; and

- iii. Such resident recipient has paid the tax due on the income declared by him in such return of income,
  - iv. The payer furnishes a prescribed certificate to this effect from a chartered accountant
3. Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, 30% of such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed in the year in which the said expenditure is incurred. However, 30% of such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.

**Interest, royalty, fees for technical services payable to a non-resident or outside India [Sec. 35(b)(ii)]**

Any interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

- outside India; or
- in India to a non resident (not being a company) or to a foreign company,
  - on which tax is deductible at source under Chapter XIX-B; and

such tax -

- has not been deducted; or
- after deduction, has not been paid within the due date of submission of return of income u/s 263(1).

**Taxpoint:**

- ✿ Where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the tax year but paid after the due date of submission of return of income u/s 263(1), such sum shall be allowed as a deduction in computing the income of the tax year in which such tax has been paid.
- ✿ Where an assessee fails to deduct the whole or any part of the tax on any sum but is not deemed to be an assessee in default u/s 398(2), then, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee.

**Taxpoint:** Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed in the year in which the said expenditure is incurred. However, such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.

**Any payment to a provident fund** or any other fund established for the benefit of employees of the assessee in respect of whom the assessee has not made effective arrangement to secure that tax shall be deducted at source from any payment made from the fund, which are taxable under the head ‘Salaries’ [Sec. 35(b)(iii)]

**Any payment which is chargeable under the head "Salaries"**, if it is payable—

- (i) outside India; or (ii) to a non-resident,  
and if the tax has not been paid in India thereon nor deducted therefrom [Sec. 35(c)]

**Royalty, licence fees, etc. payable by State Government Undertaking [Sec. 35(d)]**

Any amount

- a. paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or  
b. which is appropriated, directly or indirectly, from,  
- a State Government undertaking by the State Government.

**Note:** State Government undertaking includes—

- i. a corporation established by or under any Act of the State Government;
- ii. a company in which more than 50% of the paid-up equity share capital is held by the State Government;
- iii. a company in which more than 50% of the paid-up equity share capital is held by the entity referred to in above clauses (whether singly or taken together);
- iv. a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;
- v. an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government

Salary / interest paid by a firm to its partner [Sec. 35(e)] and Salary / interest paid by an AOP / BOI to its member [Sec. 35(f)] shall be discussed later in this chapter

### **Unreasonable Payment made to relatives [Sec. 36(2) / (3)]**

Any payment made by an assessee to specified person<sup>1</sup> shall be disallowed to the extent it is excess or unreasonable<sup>2</sup> as per the Assessing Officer.

<sup>1</sup> List of specified persons

<b>For the assessee</b>	<b>Related Person means</b>
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An Individual	Relative [as per sec. 2(94) it means the spouse, brother, sister or any lineal ascendant or descendant of that individual]
	A person in whose business or profession the individual (or his relative) has substantial interest.
A Company	Director of the company or any relative of the director
	A person in whose business or profession the company or any of its director or relative of such director has substantial interest. <b><i>Person having substantial interest:</i></b> A person is deemed to have substantial interest in the business or profession, if i. in a case, where the business or profession is carried on by a company, such person is at any time during the tax year, beneficial owner of equity share carrying not less than 20% of voting power; ii. in any other case, such person is at any time during the tax year, beneficially entitled to not less than 20% of the profits of such business or profession.
	Any other company carrying on business or profession in which the aforesaid company has substantial interest. E.g. X Ltd. holds 20% equity shares in Y Ltd., the assessee. Further, X Ltd. also holds 20% equity shares in Z Ltd. Z Ltd. shall also be considered as relative for Y Ltd. provided Z Ltd. is carrying on business or profession.
A Firm	Partner of the firm or relative of partner
	A person in whose business or profession the firm or any of its partner or relative of such partner has substantial interest.
An AOP	A member of the Association or a relative of the member.
	A person in whose business or profession the AOP or any of its member or relative of such member has substantial interest.
An HUF	A member of the family or relative of such person
	A person in whose business or profession the HUF or any of its member or relative of such member has substantial interest.
Any assessee	<ul style="list-style-type: none"> <li>• An individual who has a substantial interest in the business or profession of the assessee or the relative of such individual.</li> <li>• A company, which has a substantial interest in the business or profession of the assessee or the director of such company or relatives of such a director.</li> <li>• A Firm/HUF/AOP etc., which has a substantial interest in the business or profession of the assessee or the partner/member of such firm/HUF/AOP or relatives of such partner/member.</li> </ul>

	<ul style="list-style-type: none"> <li>• A company, one of whose director has a substantial interest in the business or profession of the assessee or directors of such company or any relative of such directors.</li> <li>• Firm, AOP, HUF, one of whose partner/member has a substantial interest in the business or profession of the assessee or any partner/member of such Firm/AOP/HUF or any relative of such person.</li> </ul>
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2. **Excessive or unreasonable:** Whether any expenditure is in excess or unreasonable is to be decided after considering the fair market value of the goods, services or facilities for which payment is made or the legitimate need of the business or profession of the assessee or the benefit arising to the assessee therefrom.

3. In case of partner’s remuneration, this provision is not applicable if remuneration is as per sec. 35(e)

**Consequences of payment exceeding ₹ 10,000/- otherwise than by account payee cheque or demand draft [Sec. 36(4)/(5)]**

**Applicability:** Any expenditure in respect of which payment has been made in excess of ₹ 10,000 in a day otherwise than by specified banking or online mode

**Treatment:** 100% of such payment shall be disallowed.

**Exception:** In the case of payment made for plying, hiring or leasing goods carriages (hereinafter referred to as Road Transport), the limit of ₹ 10,000 has been increased upto ₹ 35,000.

**Taxpoint:** The monetary limit for attracting sec. 36(4) are as follows:

Case	Monetary Limit
Payment made for plying, hiring or leasing goods carriages	₹ 35,000
Payment made for other expenses	₹ 10,000

**Other points**

- Where:
  - an allowance has been made in the earlier tax year in respect of any liability incurred by the assessee for any expenditure; and
  - subsequently during tax year, the assessee makes any payment in violation of this provision,
 then, the payment so made shall be deemed to be the profits and gains of business or profession of this tax year [Sec. 36(5)]
- If an assessee makes payment of a single bill (exceeding ₹ 10,000) on different days to the same person in cash, provision of sec. 36(4) is not attracted, provided any of the payment does not exceed ₹ 10,000.

- Where payment is made over ₹ 10,000 (or ₹ 35,000) at a time, partly by account payee cheque & partly in cash but the payment in cash alone at one time does not exceed ₹ 10,000 (or ₹ 35,000), assessee is not attracted by sec. 36(4).
- The provision of sec. 36(4) is attracted only when such expenditure is claimed as deduction.
- Loan transactions are not covered under this section.

### **Exceptions [Rule 26]**

Under the following circumstances as prescribed under Rule 26, provision of sec. 36(4) is not attracted even the payment in excess of ₹ 10,000 (or ₹ 35,000) has been made otherwise than by specified banking and online mode –

(a) Where the payment is made to—

- ✿ The Reserve Bank of India or any banking company
- ✿ The State Bank of India or any subsidiary bank
- ✿ Any co-operative bank or land mortgage bank;
- ✿ Any primary agricultural credit society or any primary credit society
- ✿ The Life Insurance Corporation of India

(b) Where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;

(c) Where the payment is made by—

- ✿ Any letter of credit arrangements through a bank;
- ✿ A mail or telegraphic transfer through a bank;
- ✿ A book adjustment from any account in a bank to any other account in that or any other bank;
- ✿ A bill of exchange made payable only to a bank;

(d) Where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee i.e., Book Adjustment;

(e) Where the payment is made for the purchase of

- ✿ Agricultural or forest produce; or
- ✿ The produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
- ✿ Fish or fish products or other marine products; or
- ✿ The products of horticulture or apiculture,  
- to the cultivator, grower or producer\*\* of such articles, produce or products;

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\*\* The 'producers' of fish or fish products for the purpose of Rule 26 would include, besides the fishermen, any headman of fishermen, who sorts the catch of fish brought by fishermen from the sea, at the sea shore itself and then sells the fish or fish products to traders, exporters etc

- (f) Where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;
- (g) Where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
- (h) Where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed ₹ 50,000;
- (i) Where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee -
  - (i) is temporarily posted for a continuous period of 15 days or more in a place other than his normal place of duty or on a ship; and
  - (ii) does not maintain any account in any bank at such place or ship;
- (j) Where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;
- (k) Where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

## **Expenditures allowed on cash basis [Sec. 37]**

### **Category A**

Deduction in respect of following expenses (which are otherwise allowed) are available only if payment is made on or before the due date for furnishing return of income u/s 263(1) of the tax year in which such liability is incurred:

1. Any sum payable<sup>1</sup> by way of tax, duty, cess, fee, by whatever name called, under any law for the time being in force.
2. Any sum payable by an employer by way of contribution to any provident fund, superannuation fund, gratuity fund or any other fund for the welfare of employees.
3. Any sum payable by an employer in lieu of any leave at the credit of employee (i.e. leave encashment).
4. Any sum payable as bonus or commission to employees for services rendered.
5. Any sum payable as interest on loan or borrowing from specified financial entities as per the terms and conditions of the agreement governing such loans or advances or borrowings

**Taxpoint:** “Specified financial entities” means a public financial institution or State Financial Corporation or State Industrial Investment Corporation or notified class of non-banking financial companies or a scheduled bank or a co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank).

6. Any sum payable by the assessee to the Indian Railways for the use of railway assets

**Taxpoint:**

- *If payment is not made before the date mentioned above, then no allowance shall be allowed in respect of the outstanding liability. Deduction can, however, be claimed in the year of payment.*
- *The method of accounting followed by the assessee is irrelevant.*
- *Sec. 37 is applicable only on those expenditure which are allowed under the provisions of this Act, if an expenditure is already disallowed under the provision of this Act, payment of such expenditure within time shall not be sufficient to make it an allowed expenditure. E.g. Income tax paid ₹ 5,000 before due date of filing of return, is not allowed as deduction.*

<sup>1</sup> **Any sum payable** means a sum for which the assessee has incurred liability in the tax year even though such sum might not have been payable within that year under the relevant law i.e. liability must have been accrued whether falls due or not.

**Notes**

1. Sec. 37 is applicable only if the assessee is following mercantile system of accounting. However, if an assessee follows cash basis of accounting, deduction shall be allowed only in the year in which payment is made, even though the payment has been made on or before due date of filing of return.
2. The provision that “for claiming deduction, payment must be made on or before the due date of filing of return” shall be applied only for the relevant tax year in which such liability is incurred. If payment is made afterwards, deduction shall be allowed in the tax year in which payment is actually made, without considering the due date of filing of return.

**Example:** Mr. X paid professional tax ₹ 10,000 related to tax year 2024-25 on 7/5/2026. Deduction for such expenditure shall be allowed in the tax year 2026-27 and not in tax year 2025-26.

3. Where outstanding interest on loan (taken from Banks, NBFC, PFIs, etc.) is converted into loan debenture or any other instrument by which the liability to pay is deferred to a future date, then such interest is **not** deemed as interest paid.
4. Where a deduction in respect of the aforesaid expenditure is allowed in an earlier year on accrual basis the same will not again be allowed as deduction under this section on payment basis.
5. Employee’s contribution to RPF, etc. is not governed by this section.

**Category B**

Any sum payable by the assessee to a **micro or small enterprise (other than a trading unit)** beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 would be allowed as deduction only in that tax year in which such sum is actually paid.

Sec. 15 of the Micro, Small and Medium Enterprises Development Act, 2006 mandates payment of goods or services to supplier, being a micro or small enterprises by the buyer on or before:

Where written agreement exists between parties	the date agreed upon between them in writing i.e., as per the written agreement. However, in any circumstance such date cannot be more than 45 days from the day of acceptance or the day of deemed acceptance of any goods or services by a buyer from a supplier.
Where there is no such written agreement	the payment shall be made before the appointed day i.e., within 15 days.

**Availability of deduction**

Where the payment has been made within the aforesaid date	The deduction can be claimed on accrual basis if mercantile method of accounting is followed by the assessee.
In other case	The deduction would be allowed in the tax year in which it is actually paid.

**Taxpoint**

- The provision is applicable only in case where payee is micro or small enterprise. That means the provision is not applicable in case of medium enterprises
- For this clause, due date of furnishing return is not relevant.

**Example**

Type of Liability	Liability Accrued on	Payment made on	Applicability of sec. 37	Allowed in the tax year
Small enterprise related	29/03/2027	02/04/2027	No	2026-27
Small enterprise related	29/03/2027	30/12/2027	Yes	2027-28
Small enterprise related	29/03/2027	30/06/2027	Yes	2027-28
Bonus to employee	31/03/2027	30/06/2027	Yes	2026-27

**Full value of consideration for transfer of assets other than capital assets [Sec. 53]**

In case of transfer of land or building or both (other than held as a capital asset), if the consideration from such transfer is less than the stamp duty value, then such stamp duty value for computing profits and gains from transfer of such asset shall be deemed to be the full value of consideration.

**Tolerance Limit:** If following is true, SDV should be ignored

$$SDV \leq 110\% \text{ of the Actual Consideration}$$

**Date of Agreement -vs.- Date of Registration:** If the dates differ, the SDV on the Date of Agreement may be taken instead of the Date of Registration. For this, atleast part of the consideration must have been received by specified banking or online mode on or before the Date of Agreement

**Taxpoint:** Where the assessee disputes the SDV, the provisions for referring the valuation to a Valuation Officer [Sec. 78(2) & (3)] will apply.

### **Insurance business [Sec. 55]**

Profits and gains of any insurance business must be computed as per the provisions of Schedule XIV.

#### **The Overriding Effect**

Completely ignore the standard computation rules for:

- Income from House Property
- Capital Gains
- Income from Other Sources
- Standard PGBP provisions (Sections 26 to 54)

### **Interest income of specified financial institutions [Sec. 56]**

In case of specified financial institutions, interest income on bad or doubtful debts (as per RBI Guidelines) is chargeable under the head "*Profits and gains of business or profession*" in the tax year in which it is:

- a. Credited to the Profit & Loss Account; or
- b. Actually Received
  - whichever is earlier.

#### **Taxpoint**

Specified financial institution means:

- i. a public financial institution; or
- ii. a scheduled bank; or
- iii. a co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank; or
- iv. a State Financial Corporation; or
- v. a State Industrial Investment Corporation; or
- vi. any such class of non-banking financial companies, as may be notified by the Central Government;

### **Revenue recognition for construction & service contracts [Sec. 57]**

Profits from construction and service contracts must generally be determined using the Percentage of Completion Method (POCM) as per ICDS notified u/s 276(2).

**Exceptions:** For service contracts only without any option, following method should be followed:

- **Short Duration:** If the contract duration is 90 days or less, use the Project Completion Method.
- **Continuous/Indeterminate Acts:** If the contract involves an indeterminate number of acts over a specified period, use the Straight Line Method [also known as Contract Length Method (CLM)].

**Mandatory Adjustments (Applicable to ALL Methods)**

- Contract revenue shall include retention money.
- Contract costs shall not be reduced by any incidental income (such as interest, dividends, or capital gains).

**Recovery against any deduction [Sec. 38(l)(a)]**

**Conditions**

Where an allowance or deduction has been allowed in respect of any loss, expenditure or trading liability incurred by the assessee during any tax year, then,—

- a. the value of any benefit accruing to the assessee by way of cessation or remission of such trading liability, in a subsequent tax year in which such benefit accrues; or
- b. any amount obtained by the assessee, whether in cash or otherwise, in respect of such loss or expenditure incurred, in subsequent tax year in which the amount is obtained,

**Treatment:** The amount obtained or benefit accrued shall be deemed to be the profits & gains of business or profession and chargeable to income tax as income of the tax year in which such benefit is obtained.

**Notes**

1. The provision holds good, whether the business or profession in respect of which such allowance or deduction has been made is in existence in that year or not.
2. The remission or cessation of trading liability may be unilateral act of the assessee by way of writing off such liability in his accounts
3. The first and the most necessary ingredient for the application of this section is that an allowance or deduction must be made previously while computing the taxable income
4. Where benefit has been obtained by the successor in business, such benefit shall be taxable in hands of successor.
  - Successor in business means:
    - i. where there has been an amalgamation of a company with another company, the amalgamated company;
    - ii. where a firm carrying on a business or profession is succeeded by another firm, the other firm;

- iii. where there has been a demerger, the resulting company.
- iv. in any other case, where one person is succeeded by any other person in that business or profession, the other person;

### **Recovery after discontinuance of business or profession [Sec. 320(4) and (5)]**

**Condition:** Business or profession is discontinued in any year due to death or retirement of the person carrying on such business or profession.

**Treatment:** Any sum received after such discontinuance shall be deemed to be the income of the recipient and chargeable to tax in the year of receipt.

## **Method of accounting in certain cases [Sec. 277]**

### **Valuation of stock**

- ✿ The valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the ICDS.
- ✿ The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation. Such tax, duty, etc. shall include all such payment notwithstanding any right arising as a consequence to such payment.
- ✿ The inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised in accordance with the ICDS.
- ✿ The inventory being securities other than above, shall be valued at lower of actual cost or net realisable value in accordance with the ICDS
- ✿ The inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the ICDS after taking into account the extant guidelines issued by the Reserve Bank of India in this regard.
- ✿ The comparison of actual cost and net realisable value of securities shall be made category-wise.

## **Maintenance of books of account [Sec. 62 & Rule 46]**

Case	Person falling under this category	Turnover or Gross Receipt or Profit from such business or profession		Maintenance of Accounts
		Existing	New	
A	Persons carrying on specified professions <sup>1</sup>	Gross receipts > ₹ 1,50,000 in <i>all of the three years</i> immediately	Gross receipts for that year is likely to exceed ₹ 1,50,000.	Maintain such books of account and other documents as

		preceding the tax year.		prescribed by Rule 46 <sup>2</sup>
B		Gross receipts $\leq$ ₹ 1,50,000 <i>in any one of the three years</i> immediately preceding the tax year.	Gross total receipts in the profession for that year is not likely to exceed ₹ 1,50,000.	Maintain such books of account and other documents as may enable the Assessing Officer to compute their taxable income under the Income-tax Act.
C	Persons carrying on a “non-specified profession or any business”:	a) Profit from such profession or business $>$ ₹ 1,20,000 (in case of individual & HUF ₹ 2,50,000); or b) The total sales or turnover or gross receipts thereof $>$ ₹ 10,00,000 (in case of individual & HUF ₹ 25,00,000), - <i>in any of the 3 years</i> immediately preceding the tax year	Income/ total sales, etc. is likely to exceed the said amount.	Maintain such books of account and other documents as may enable the Assessing Officer to compute their taxable income under the Income-tax Act.
D		Aforesaid limit does not exceed <i>in all of the 3 years</i> immediately preceding the tax year	Income is not likely to exceed said limit and total sales, turnover or gross receipt is not likely to exceed said limit.	Not required to maintain any books of account.
E	An assessee [(covered u/s 61 (Table S.N. 2 and 4)] who claims income from such business to be lower than the deemed income computed in accordance with the respective sections.			Maintain such books of account & other documents as may enable the AO to compute his taxable income under the Income-tax Act.
F	Where the provision of sec. 58(3) is applicable and income of the assessee exceeds the maximum amount which is not chargeable to income-tax (i.e. basic exemption limit)			

1. **Specified Profession:** Legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, information technology, company secretary, authorised representative, film artist or any other profession as is notified by the Board in the Official Gazette.

2. **Following books of account are required to be maintained as per Rule 46**

a. Cash book;

**Taxpoint:** Cash book means a record of all cash receipts and payments, kept and maintained day-to-day and giving the cash balance in hand at the end of each day or at the end of a specified period not exceeding a month

b. Journal, if mercantile system of accounting is followed;

c. Ledger;

d. Copies of bills or receipts, equal to or exceeding ₹ 250, issued by the assessee; and

e. Original bills and receipts in respect of expenditure equal to or exceeding ₹ 250 incurred by the person and issued to him;

f. Payment vouchers prepared and signed by the person, where the expenditure incurred does not exceed ₹ 250

However, where the cash book maintained by the person contains adequate particulars, the preparation of vouchers is not required.

g. Assessee engaged in medical profession are also required to maintain -

- Daily Case Register in Form 25.
- An inventory under broad heads, as on the first and the last day of the tax year, of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession

### **Notes**

1. **Period for which books of account is to be maintained [Rule 46(9)]:** The books of account and other documents shall be kept and maintained for a period of 7 tax years from the end of the relevant tax year.

All the books of account and other documents which were kept and maintained at the time of reopening of the assessment shall continue to be so kept and maintained till the completion of assessment

2. **Place at which books to be kept and maintained:** The books of account and other documents other than those relating to a tax year which has come to an end shall be kept and maintained by the person at:

- a. the place where he is carrying on the profession; or
- b. where the profession is carried on in more places than one, at the principal place of his profession; or
- c. if the person keeps and maintains separate books of account in respect of each place where the profession is carried on, such books of account and other documents may be kept and maintained at the respective places at which the profession is carried on.

3. **Penalty:** Where an assessee fails to comply with the provision of sec. 62, he shall be liable to pay penalty u/s 441 of ₹ 25,000.
4. As per sec. 2(19), books or books of account includes ledgers, day-books, cash books, account-books and other books, whether kept
  - a. in written form; or
  - b. in electronic or any digital form, or on cloud based storage, or on any electromagnetic data storage device, such as floppy, disc, tape, portable data storage device, external hard drives, or memory cards; or
  - c. as print-outs of data stored in electronic or digital form or on storage devices mentioned above.
5. **Location of server:** The books of account and other documents maintained in electronic mode shall remain accessible in India at all times, and the backup of such books of account and other documents maintained in electronic mode, shall be **kept on a daily basis** in servers **physically located in India**

### **Tax Audit [Sec. 63]**

Following assessee are required to get their accounts audited by an accountant and to furnish (electronically) the audit report (in Form 26) in a specified form one month prior to the due date of filing of return of income:

1. An assessee carrying on business

**Condition:** Total sales, turnover or gross-receipts of business for the tax year exceeds ₹ 1 crore.

**Exception 1:** Where a person:

- Declares profits and gains for the tax year u/s 58(2) (Table S.N. 1); **and**
- His total sales / turnover / gross receipts in business does not exceed ₹ 2 crore in the tax year,
  - then, the provision of tax audit is not applicable.

**Exception 2:** Where a person:

- Declares profits and gains for the tax year u/s 58(2) (Table S.N. 1); **and**
- His total sales / turnover / gross receipts in business does not exceed ₹ 3 crore in the tax year; **and**
- Aggregate of all amounts received during the tax year in cash does not exceed 5% of the total turnover or gross receipt of such tax year,
  - then, the provision of tax audit is not applicable.

**Exception 3:** If the following conditions are satisfied, then the higher threshold limit of ₹ 10 crore shall be applicable for a person carrying on business:

- a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the tax year, in cash, does not exceed 5% of the said amount; **and**

- b) aggregate of all payments made including amount incurred for expenditure, in cash, during the tax year does not exceed 5% of the said payment.

**Taxpoint:** The payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash

In nutshell, applicability of tax audit in case of business assessee are as under:

Case	Applicability
Turnover exceeds ₹ 10 crore	Applicable
Turnover does not exceed ₹ 2 crore and assessee is covered u/s 58(2) (Table S.N. 1)	Not applicable
Turnover does not exceed ₹ 3 crore and his cash receipt does not exceed 5% of total turnover and assessee is covered u/s 58(2) (Table S.N. 1)	Not applicable
Turnover does not exceed ₹ 10 crore and cash receipt during the tax year does not exceed 5% of aggregate receipt; <b>and</b> cash payment during the tax year does not exceed 5% of aggregate payment	Not applicable
Turnover does not exceed ₹ 10 crore but exceed ₹ 1 crore and aforesaid conditions are not satisfied (assessee is not covered u/s 58(2) [Table S. N. 1]	Applicable

2. An assessee carrying on profession

**Condition:** Gross receipts of profession for the tax year exceeds ₹ 50 lacs.

**Exception 1:** Where a person:

- Declares profits and gains for the tax year u/s 58(2) [Table S. N. 3]; **and**
  - His gross receipts from profession does not exceed ₹ 75 lakhs in the tax year; **and**
  - Aggregate of all amounts received during the tax year in cash does not exceed 5% of the gross receipt of such tax year,
    - then, the provision of tax audit is not applicable.
3. An assessee covered u/s 58(2) [Table S. N. 2] and u/s 61 (Table S.N. 2 and 4)

**Condition:** Assessee has claimed that his income from such business is lower than the deemed income computed in accordance with the respective section.

**Fee u/s 428 for delayed submission of report:** If a person fails to get his accounts audited for any tax year and furnish the report of such audit as required, he shall be liable to pay by way of fee:

Delay	Fee u/s 428(c)
Upto 1 month	₹ 75,000

More than 1 month	₹ 1,50,000
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### Computation of income of resident on basis of estimation [Sec. 58]

#### Computation of Business Profit on Presumptive Basis [Sec. 58(2) (Table S.N. 1)]

Applicable to	<p>A resident individual, resident Hindu undivided family or a resident partnership firm</p> <p><b>Note:</b> The provision is not applicable in case of the following:</p> <ul style="list-style-type: none"> <li>• Limited liability partnership firm</li> <li>• A person claiming deduction under chapter VIII-C i.e., profit based deduction</li> <li>• A person carrying on profession as referred to in sec. 62</li> <li>• A person earning income in the nature of commission or brokerage; or</li> <li>• A person carrying on any agency business</li> <li>• A person carrying on the business of plying, hiring or leasing goods carriages referred to in Table S.N. 2</li> </ul>	
Conditions	<p><b>a. Eligible Business:</b> Assessee must be engaged in any business other than the business referred above</p> <p><b>b. Maximum Turnover:</b></p> <p><u>Option 1</u></p> <p>Total turnover or gross receipts in the tax year should not exceed ₹ 2 crore.</p> <p style="text-align: center;">Or</p> <p><u>Option 2</u></p> <p>Where aggregate amounts received during the tax year, in cash, does not exceed 5% of the total turnover or gross receipts of such tax year, then total turnover or gross receipts in the tax year should not exceed ₹ 3 crore.</p> <p><i>Taxpoint:</i> Where receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.</p>	
Income from business [Being higher of	<p>A. Aggregate of the following</p> <ul style="list-style-type: none"> <li>• Where amount of turnover or gross receipts is received by specified banking or online mode during the tax year or before the due date of filing return of income in respect of that tax year</li> </ul>	<p>6% of such turnover or receipts</p>

(A) and (B)]	<ul style="list-style-type: none"> <li>• In any other case</li> </ul>	8% of such turnover or receipts
B. Profit claimed to have been actually earned		

### **Taxpoint**

1. **No Deduction in respect of expenses:** The estimated income is comprehensive and no further deductions relating to expenses shall be allowed.
2. **Depreciation:** Depreciation is deemed to have been already allowed. The written down value of asset will be calculated, as if depreciation has been allowed.
3. **Deductions:** The above estimated income is aggregated with other income of the assessee, from any other business or under any other heads of income. Further deduction under chapter VIII (other than those mentioned above) shall be available to the assessee as usual.
4. **Brought forward loss:** Brought forward loss (if any) shall be subtracted from such estimated income as per provisions of this Act.
5. **Ban to opt [Sec. 58(7)]:** Where an eligible assessee:
  - a. declares profit for any tax year as per provisions of this section; &
  - b. declares **lower** profit (i.e., less than specified percentage of the turnover) for **any** of the **5 tax years** succeeding such tax year,
 then, he shall not be eligible to claim the benefit of the provisions of this section for 5 tax years subsequent to the tax year in which he has declared lower profit.  
 E.g. an assessee claims to be taxed on presumptive basis for tax year 2025-26. For tax year 2026-27 and 2027-28, he offers income on the basis of presumptive taxation scheme. However, for tax year 2028-29, he did not opt for presumptive taxation Scheme. In this case, he will not be eligible to claim benefit of presumptive taxation scheme for next 5 tax years, i.e. from tax year 2029-30 to 2033-34.
6. **Effect on the assessee if sec. 58(7) is applicable or offer lower income:** An assessee to whom provision of this section is applicable and whose total income exceeds the maximum amount which is not chargeable to tax (i.e., basic exemption limit), he shall be required:
  - To maintain books of account and other documents as required u/s 62; and
  - To get his accounts audited and furnish a report of such audit as prescribed u/s 63

### **Business of plying, leasing or hiring goods carriage [Sec. 58(2) (Table S. N. 2)]**

Applicable to	All assessee engaged in the business of plying, hiring or leasing goods carriage.
Condition	<b><u>Number of carriages:</u></b> Assessee must not own more than 10 goods carriages at any time during the tax year.

	<p><i>Owner</i> of carriages includes a buyer under hire purchase or installment system even if the whole amount is unpaid.</p> <p><i>Goods carriage</i> means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;</p>	
Income from business [Being higher of (A) and (B)]	A. Aggregate of the following:	
	<b>Type of Goods Carriage<sup>#</sup></b>	<b>Presumptive Income (Per month or part of a month)</b>
	Heavy	₹ 1,000 per ton of gross vehicle weight or unladen weight
	Other	₹ 7,500
	B. Profit claimed to have been actually earned	
<p><sup>#</sup> Income shall be calculated from the month when assessee acquired the property whether it has been put to use or not.</p>		

**Taxpoint:**

- Heavy goods vehicle** means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms
  - Deduction u/s 28 to 54:** The estimated income is comprehensive and no further deductions shall be allowed.
  - Deduction u/s 35(e):** In the case of a firm, deduction in respect of remuneration and interest to partner u/s 35(e) shall be further deductible from income so computed.
  - Depreciation:** Depreciation is deemed to have been already allowed. The written down value of asset will be calculated, as if depreciation has been allowed.
  - Deductions:** The above estimated income is aggregated with other income of the assessee, from any other business or under any other heads of income. Further deduction under chapter VIII shall be available to the assessee as usual.
  - Brought forward loss:** Brought forward loss (if any) shall be adjusted from such estimated income.
  - Maintenance of books of account and audit:** An assessee, who compute his income from such business as per this section, is not required to -
    - Maintain books of account u/s 62; and
    - Get his accounts audited u/s 63
 - in respect of his income from such business.
- However, he has to comply with the requirements of both sec. 62 and 63 in respect of his other businesses. Further to note that in computing the monetary limits u/s 62 and 63, the gross receipts or income from the said business shall be excluded.
- Effect if assessee declares lower income:** An assessee can declare his income lower than the income as per provision of this section. In such case he will have to

- Maintain books of account and other documents as required u/s 62; and
- Get his accounts audited and furnish a report of such audit as prescribed u/s 63 irrespective of amount of turnover or gross receipts.

**Note:** Assessee can change his option from year to year.

### **Illustration 5**

Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1<sup>st</sup> April, 2026, he owns 10 trucks (out of which 6 are heavy good vehicles of (unladen weight of each is 20 ton)). On 2/5/2026, he sold one of the heavy goods vehicles & purchased a light goods vehicle on 6<sup>th</sup> May, 2026. This new vehicle could however be put to use only on 15-6-2026.

Compute income of Mr. Sukhvinder from this business for the tax year 2026-27 as per sec. 58 so that tax audit is not applicable

### **Solution**

Computation of income u/s 58 (Table S. N. 2)

Vehicle	No. of vehicle	Details	Amount
Light	4	₹ 7,500 * 4 vehicles * 12 months	3,60,000
Heavy	5	₹ 1,000 * 5 vehicles * 12 months * 20 ton	12,00,000
Heavy	1	₹ 1,000 * 1 vehicle * 2 <sup>#</sup> months * 20 ton	40,000
Light	1	₹ 7,500 * 1 vehicles * 11 <sup>#</sup> months	82,500
Income from business of plying goods carriage			16,82,500

<sup>#</sup> Income shall be calculated from the month when assessee acquired the property whether it has been put to use or not. For this purpose, any fraction of the month shall be considered as month.

### **Computation of Professional Income on Presumptive Basis [Sec. 58 (Table S. N. 3)]**

Applicable to	Any resident individual and resident firm (other than LLP)
Conditions	<p>a. <b><u>Engaged in Profession:</u></b> Assessee must be engaged in any profession referred to in sec. 62 (i.e., Legal, medical, engineering, architectural profession or profession of accountancy, technical consultancy, interior decoration, etc.)</p> <p>b. <b><u>Maximum Receipts:</u></b></p> <p><u>Option 1</u></p> <p>Gross receipts of the assessee in the tax year should not exceed ₹ 50 lakh.</p> <p style="text-align: center;">Or</p> <p><u>Option 2</u></p>

	<p>Where aggregate amounts received during the tax year, in cash, does not exceed 5% of the gross receipts of such tax year, then gross receipts in the tax year should not exceed ₹ 75 lakh.</p> <p><i>Taxpoint:</i> Where receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.</p>
Income from business	<p>A. 50% of the gross receipts.</p> <p>B. Profit claimed to have been actually earned - whichever is higher</p>

**Notes**

- Deduction for expenses:** The estimated income is comprehensive and no further deductions u/s 28 to 54 shall be allowed.
- Depreciation:** Depreciation is deemed to have been already allowed. The written down value of asset will be calculated, as if depreciation has been allowed.
- Deductions:** The above estimated income is aggregated with other income of the assessee, from any other business or under any other heads of income. Further deduction under chapter VIII shall be available to the assessee as usual.
- Brought forward loss:** Brought forward loss (if any) shall be subtracted from such estimated income as per provisions of this Act.
- Effect if assessee declares lower income:** An assessee can declare his income lower than the estimated income as per provision of this section. In such case he will have to:
  - Maintain books of account and other documents as required u/s 62 if his total income exceeds the maximum exemption limit; and
  - Get his accounts audited and furnish a report of such audit as prescribed u/s 63 (*irrespective of amount of turnover or gross receipts*) if his total income exceeds the maximum exemption limit.

**Note:** Assessee can change his option from year to year

## FIRM ASSESSMENT

**Introduction**

- Under Income Tax Act, a partnership firm has a separate identity apart from its partner. It is taxed as a separate entity at a flat rate of 30% + applicable surcharge + Health & Education cess @ 4%.
 

**Taxpoint:** Unless and until otherwise mentioned, a partnership firm shall include limited liability partnership. Further, the word ‘Partner’ includes partner of a limited liability partnership.
- The share of partner (member) in the income of the firm is not taxable in the hands of partners [Schedule III Table S No. 2].

3. As in case of any other assessee, income of the firm (including LLP) is also assessed under heads of income i.e. 'Income from house property', 'Profits & gains of business or profession', 'Capital gains' and 'Income from other sources'.

**Taxpoint:** Registration of firm is not compulsory to assess a firm as such for income tax purpose.

### **Deduction u/s 35(e)**

In case of computation of income under the head "Profits & gains of business or profession" a partnership firm shall, apart from all deductions discussed in the said chapter, be further allowed deduction u/s 35(e) in respect of -

- interest to partner; and
- remuneration to partner.

**Conditions:** As per sec. 326, to claim deduction u/s 35(e), the firm shall have to fulfil the following conditions as laid down u/s 325.

1. The partnership must be evidenced by an instrument
2. A certified copy of the instrument of partnership shall accompany the return of income of the year in which assessment as a firm is first sought
3. The individual shares of the partners must be specified in the instrument.
4. There is no failure as specified u/s 271 on part of the firm

**Effect of non-fulfilment of above conditions:** As per sec. 326, where a firm does not comply with the provisions of sec. 325 for any tax year, then no deduction by way of interest to partner or remuneration to partner shall be allowed

#### **Interest to partner**

Interest to partners *whether on capital or on loan* is allowed as deduction.

#### **Conditions**

1. Interest must be authorised by the partnership deed.
2. Payment must pertain to a period after the partnership deed.

**Deduction:** Minimum of the following is allowed as deduction -

- a) Actual interest given to partner as per deed.
- b) 12% p.a. simple interest.

#### **Interest to representative partner**

Where an individual is a partner in a firm on behalf of or for the benefit of any other person, he is termed as a representative partner.

**Treatment:** Interest to representative partner –

1. **Governed by sec. 35(e):** Interest paid by the firm -

- to such individual as partner in a representative capacity; and
  - to the person so represented.
- shall be governed by sec. 35(e).
2. **Not governed by sec. 35(e)**: Interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be governed by sec. 35(e) but by sec. 32.

**Interest on drawings**: Interest on drawings, charged by the firm from its partner(s), shall be treated as taxable income.

**Remuneration to partner**

Remuneration to a partner includes salary, fees, commission, bonus, etc.

**Conditions**: Remuneration is allowed subject to fulfilment of the following conditions:

1. Partner must be a working partner.
2. Remuneration must be authorised by the partnership deed.
3. Payment must pertain to a period after the partnership deed.

*Working partner* means an individual who is actively engaged in conducting the affairs of the business or profession of the firm. ‘Time devotion’ is not the key factor for deciding the status of partner as a working partner.

**Deduction**: Remuneration (in total) is allowed to the minimum of the following:

- a) Actual remuneration allowed to all partners.
- b) Maximum permissible limit u/s 35(e)

**Maximum permissible limit**

Amount of book-profit <sup>1</sup>	Maximum remuneration allowed
In case of loss	₹ 3,00,000
<b>In case of profit</b>	
- First ₹ 6,00,000	90% of book profit or ₹ 3,00,000, whichever is higher
- On balance book-profit	60% of next book profit

<sup>1</sup> **Computation of Book Profit**

- Step 1**: Find out the net profit of the firm as per Profit & Loss A/c
- Step 2**: Make adjustment as per this chapter (including adjustment for interest on partner’s capital)
- Step 3**: Add remuneration to partner, if debited to the Profit & Loss A/c
- Step 4**: Subtract unabsorbed depreciation but do not subtract brought forward business losses. The resultant figure is book profit.

**Note:** Due to subtraction of unabsorbed depreciation the residual profit should not be less than the brought forward losses, which are to be set-off in the current year.

### Notes

- Income from house property, Income from other sources and Capital gains do not form part of book profit.
- Deduction under chapter VIII shall be ignored for this purpose.

### Illustration 6

Uttar and Dakshin, partners of PP Traders, furnishes the following details –  
Profit and loss account for the year ended 31-3-2027

Particulars	Amount	Particulars	Amount
Bonus paid to employee	50,000	Gross Profit	20,00,000
Interest on loan taken from bank	45,000	Interest on drawings	
Other Expenses	40,000	Uttar	2,000
<u>Salary to partners</u>		Dakshin	3,000
Uttar	4,88,000		
Dakshin	9,76,000		
<u>Interest on capital @ 15%</u>			
Uttar	4,500		
Dakshin	6,000		
Depreciation	40,000		
Net profit	3,55,500		
	<b>20,05,000</b>		<b>20,05,000</b>

### Additional information

1. Depreciation for the year allowed u/s 33 is ₹ 30,000.
2. During the last year, firm has incurred loss of ₹ 17,00,000 (which includes unabsorbed depreciation of ₹ 1,00,000).
3. Interest on loan taken from bank is yet to be paid. Compute total income of firm.

### Solution

**Working 1** Computation of remuneration allowed to the partners

Particulars	Details	Amount
<u>Profits and gains of business or profession</u>		
Net profit as per Profit & loss account		3,55,500
Add: Expenditure disallowed but debited in P/L A/c		

Salary to partners	14,64,000	
Interest on capital (in excess of 12%) [(₹ 4,500 + ₹ 6,000)/15 * 3]	2,100	
Depreciation	40,000	
Interest on loan taken from bank is disallowed u/s 37	45,000	15,51,100
		19,06,600
<i>Less: Expenditure allowed but not debited in P/L A/c</i>		
Depreciation		30,000
		18,76,600
<i>Less: Unabsorbed Depreciation (allowed to the extent that the remaining book profit is not less than brought forward business losses)</i>		1,00,000
<b>Book profit</b>		<b>17,76,600</b>
Remuneration paid to the partners (being minimum of the following)		
- Actual remuneration	14,64,000	
- Maximum remuneration u/s 40(b) [₹ 6,00,000 * 90% + ₹ 11,76,600 * 60%]	12,45,960	12,45,960

Computation of total income of PP Traders for tax year 2026-27

Particulars	Amount
Book Profit before adjusting unabsorbed depreciation	18,76,600
<i>Less: Salary to partner (as computed above)</i>	12,45,960
	6,30,640
<i>Less: Brought forward business loss</i>	6,30,640
<b>Total Income</b>	<b>Nil</b>
Remaining brought forward loss ₹ 9,69,360 & unabsorbed depreciation ₹ 1,00,000 shall be carried forward.	

#### Remuneration to a representative partner

Remuneration to a representative partner shall be taxable in the hands of such partner and not in hands of organization so represented. However, provision of sec. 35(e) will be applicable.

#### Treatment in the hands of partner

**Share of profit:** Partners' share in the total income of the firm is exempt in the hands of partners. Income of a firm shall be taxed in hands of firm only and the same can under no circumstances be taxed in hands of its partners. The entire profit credited to the partner's account in the firm would be exempt from tax in hands of such partners, even if the income

chargeable to tax becomes Nil in the hands of the firm on account of any exemption of deduction as per provisions of the Income-tax Act.

**Interest and remuneration to partner:** Interest and remuneration to partner shall be taxable in the hands of partner, to the extent it is exempted in the hands of firm.

**Example: 1:** A, B & C are partners in ABC & Co. Interest on capital allowed @ 16% to A ₹ 16,000, B ₹ 8,000 and C ₹ 32,000. Interest treatment in the hands of firm is as under –

<u>Partner</u>	<u>Allowed @ 12%</u>	<u>Remaining Disallowed</u>	<u>Business Income of the Partner</u>
A	12,000	4,000	12,000
B	6,000	2,000	6,000
C	24,000	8,000	24,000

**Example: 2:** A, B & C are partners in ABC & Co which has sustained a loss of ₹ 4,00,000 during the tax year. Remuneration paid to A ₹ 1,50,000, B ₹ 2,00,000 and C ₹ 1,00,000. Since the firm is running in loss hence the maximum remuneration allowed to the firm is ₹ 3,00,000. In such case, taxable amount in hands of partner shall be the proportionate amount of remuneration allowed in hands of firm, calculated as under:

<u>Partner</u>	<u>Workings</u>	<u>Taxable remuneration</u>
A	1,50,000 / 4,50,000 * 3,00,000	1,00,000
B	2,00,000 / 4,50,000 * 3,00,000	1,33,333
C	1,00,000 / 4,50,000 * 3,00,000	66,667

**General note related to firm Assessment**

**Effect of registration of firm:** Registration of firm is not compulsory to assess a firm as such for income tax purpose.

**Change in constitution or profit share ratio:** As per sec. 325(4), a firm shall be assessed as firm for the purposes of this Act, if there is no change in -

- the constitution of the firm<sup>1</sup>.
- profit sharing ratio.

Where any such change had taken place in the tax year, the firm shall furnish a certified copy of the revised instrument of partnership (partnership deed) along with the return of income of the relevant tax year [Sec. 325(5)].

**Note:** In case of mere change in remuneration to partner or interest to partner, the revised instrument should be submitted to claim benefit u/s 35(e). However, if the revised instrument has not been filed then the interest and remuneration shall be allowed as per the old instrument.

<sup>1</sup> *Change in the constitution of the firm* means —

- one or more of the partners cease to be partner(s); or
- one or more new partners are admitted

**Carry forward & Set-off of loss of Firm on change in constitution of firm [Sec. 119]**

Where a change occurs in the constitution of firm, on account of retirement or death of a partner, the proportionate loss of the retired or deceased partner shall not be carried forward. However, this section shall not apply in case of unabsorbed depreciation.

**Special Provision for Non-Resident**

**Special Provision for Computing Income by way of Royalties, etc. in case of Non-resident [Sec. 59]**

Applicable to	A non-resident (not being a company) or a foreign company
Conditions	<ol style="list-style-type: none"> <li>1. Assessee has earned income by way of royalty or fees for technical services received from the Government or an Indian concern in pursuance of an agreement made with the Government or the Indian concern;</li> <li>2. Assessee carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein; and</li> <li>3. Right, property or contract in respect of which royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession</li> </ol>
Tax Treatment	Income shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of this Act.
Deduction not permissible	<p>No deduction shall be allowed in respect of -</p> <ul style="list-style-type: none"> <li>• any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or</li> <li>• amounts paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.</li> </ul>

**Note:** Assessee shall keep and maintain books of account and other documents as per sec. 62 and get his accounts audited u/s 63 and upload one month prior to the due date of filing of the return of income, the report of such audit in Form 24 (Rule 43) duly signed and verified by chartered accountant.

**Deduction of Head Office Expenditure in the case of Non-residents [Sec. 60]**

In case of a non-resident assessee, head office expenditure shall not be allowed (in computing the income chargeable under the head "Profits and gains of business or profession") in excess of the higher of the following amount:

- (i) an amount equal to 5% of the adjusted total income; or
- (ii) the amount of so much of the expenditure in the nature of head office expenditure incurred by the assessee as is attributable to the business or profession of the assessee in India,

### **Other Points**

- ✿ Adjusted total income means the total income without giving effect to:
  - a) Head-office expenditure u/s 60; or
  - b) Unabsorbed depreciation u/s 33(11); or
  - c) Capital expenditure on family planning u/s 32(i)(A); or
  - d) Any loss carried forward u/s 111 or 112 or 113 or 115; or
  - e) Any deductions under Chapter VIII;
- ✿ Where the adjusted total income of the assessee is a loss, then (i) shall be computed at the rate of 5% of the average adjusted total income of the assessee.
- ✿ Average adjusted total income means average of adjusted total income of 3 tax years immediately preceding the relevant tax year. However, where the total income of the assessee is assessable only for last 2 or 1 year(s), then average of last 2 or 1 year(s) shall be considered.
- ✿ Head office expenditure means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of:
  - (a) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;
  - (b) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;
  - (c) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and
  - (d) such other matters connected with executive and general administration as may be prescribed.

### **Special provision for computation of income on presumptive basis in respect of certain business activities of certain non-residents [Sec. 61]**

The profits and gains of specified business, carried on by a specified assessee during a tax year, shall be computed in the following manner, and shall be deemed to be the profits and gains of such business of such assessee chargeable to tax for the said tax year under the head "Profits and gains of business or profession"

S.N.	Specified business	Specified assessee	Profits and gains of business or profession
1.	Business of operation of ships, other than cruise ships referred to in Serial number 2.	Non-resident.	7.5% of (A+B), where,- A = Sum on account of carriage of passengers, livestock, mail or goods shipped at any port in India, whether paid or payable, in or outside India, to the assessee or any other person on his behalf (including demurrage, handling or other similar charges); B = Sum on account of carriage of passengers, livestock, mail or goods shipped at any port outside India, whether received or deemed to be received in India, by the assessee or any other person on his behalf (including demurrage, handling or other similar charges).
2.	Business of operation of cruise ships (subject to the conditions as may be prescribed).	Non-resident.	20% of (A+B), where,- A = Sum on account of carriage of passengers, paid or payable to the assessee or any other person on his behalf; B = Sum on account of carriage of passengers received or deemed to be received by the assessee or any other person on his behalf.
3.	Business of operation of aircraft.	Non-resident.	5% of (A+B), where, - A = Sum on account of carriage of passengers, livestock, mail or goods from any place in India, paid or payable (in or outside India) to the



			assessee or any other person on his behalf; B = Sum on account of carriage of passengers, livestock, mail or goods from any place outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
4.	Business of civil construction or erection or testing or commissioning, of plant or machinery, in connection with a turnkey power project, approved by the Central Government.	Foreign company.	10% of the amount towards such civil construction, erection, testing, or commissioning, paid or payable, to the assessee or to any other person on his behalf, whether in or outside India.
5.	Business of providing services or facilities (including supply of plant and machinery on hire) for prospecting, extraction or production of mineral oils.	Non-resident.	10% of (A+B) where,- A = Sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils in India, paid or payable (in or outside India), to the assessee or any other person on his behalf; B = Sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
6.	Business of providing services or technology in India, for the purposes of	Non-resident.	25% of (A+B), where,-

	setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India to a resident company.		A = Amount paid or payable to the non-resident assessee or to any person on his behalf on account of providing services or technology; B = Amount received or deemed to be received by the non-resident assessee or on behalf of non-resident assessee on account of providing services or technology.
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**Taxpoint**

- **No Other Allowance:** Any loss, allowance or deduction allowable shall not be allowed against the computed income
- **WDV:** The written down value of any asset used for specified business or profession shall be computed, as if the assessee had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

**Related to S. N. 5**

- **Applicability:** The provisions of this section shall not apply where the provisions of sec. 54 or 59 or 207 or 527 apply for the purposes of computing profits and gains or any other income referred to in the said sections.
- **Plant** includes ships, aircrafts, vehicles, drilling units, scientific apparatuses and equipments used for the purposes of the specified business

**Related to S. N. 4 and 5**

- **Lower income:** The specified assessee (S.N. 4 & 5) may claim that the profits actually earned from the specified business are lower than computed business profits, if:
  - a. he keeps and maintains such books of account and other documents as required u/s 62; and
  - b. gets his accounts audited and furnish a report of such audit as required u/s 63.

**Related to S. N. 6**

- The provisions of sec. 59 and 207 shall not apply to amounts referred to in S. N. 6
- **Conditions:** Resident company shall satisfy the following:
  - a. it is establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronic goods, article or thing in India, under a scheme notified by the Central Government in the Ministry of Electronics and Information Technology; and
  - b. it satisfies the conditions as may be prescribed in this behalf.

**Section Mapping**

Old	New	Old	New	Old	New	Old	New
28	26	35CCC	47	41	38	44A	50
29	27	35CCD	47	42	54	44AA	62 & 58



30	28	35D	44	43	39 & 41	44AB	63 & 58
31	28	35DD	52	43A	42	44AD	58
32	33	35DDA	52	43AA	43	44ADA	58
33AB	48 & Sch IX	35E	51	43B	37	44AE	58
33ABA	49 & Sch X	36	29 to 32	43C	40	44B – 44BBD	61
35	45	37	34	43CA	53	40C	60
35ABA	52	38	28 & 33	43CB	57	44DA	59
35ABB	52	40	35	43D	56	44DB	64
35AD	46	40A	29 & 36	44	55	Definitions	2, 65 & 66

## CAPITAL GAINS

As per sec. 67(1), profits or gains arising on *transfer* of a *capital asset* shall be chargeable under the head “*Capital Gains*”.

**Taxpoint:** *Following are the essential conditions to be satisfied to charge any income under the head “Capital Gains”:*

- a. *There must be a capital asset.*
- b. *The assessee transfers such capital asset.*
- c. *There must be profit or gain (including negative profit or gain) on such transfer.*

The transferred asset should be a capital asset at the time of transfer.

### Basis of Charge

Capital gain shall be taxable in the tax year in which the asset is transferred.

However, in some cases, capital gain is taxable in the tax year in which consideration is received rather than in the tax year in which transfer took place e.g. compulsory acquisition by the Government (discussed later in this chapter).

### Capital Asset [Sec. 2(22)]

Capital asset means –

- property of any kind of held by an assessee, whether or not in connection with his business or profession;
- any securities held by:
  - i. a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992
  - ii. an investment fund specified in sec. 224(10)(a) which has invested such securities in accordance with the provisions of the regulations made under the Securities and Exchange Board of India Act, 1992 or under the International Financial Services Centres Authority Act, 2019
- any unit linked insurance policy to which exemption under Schedule II (Table S. No. 2) does not apply

**Note:** Capital asset may be movable or immovable or tangible/corporeal (furniture, jewellery, etc.) or intangible/incorporeal (goodwill, tenancy right, copy right, etc.)

"Property" includes any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever

- but does not include the following:

(1) ***Stock in trade***

Stock in trade, consumable stores or raw materials held for business or profession.

However, any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 shall not be treated as stock-in-trade

***Treatment of profit on sale of stock***

Such profit shall be taxable under the head “Profits & gains of business or profession”

(2) ***Personal effect***

Personal effect means any *movable property* (including wearing apparel and furniture) held for personal use by the assessee or any family member dependent on him but excludes the followings:

- a. jewellery<sup>#</sup>
- b. archaeological collections
- c. drawings
- d. paintings
- e. sculptures; or
- f. any work of art

***Taxpoint***

- *An immovable property and aforesaid assets held for personal use are not personal effect and hence are capital assets. E.g. a house property even though used for personal purposes, cannot be treated as personal effect and shall fall within the definition of capital assets.*
- *Securities are not personal effect.*
- *Personal effect includes wearing apparel, furniture, car, cycle, scooter used by the assessee for personal purposes.*
- *Intangible assets do not have personal effect.*

<sup>#</sup> ***Jewellery*** includes –

- ornaments made of gold, silver, platinum, any other precious metal or any alloy of such precious metals. It is immaterial whether or not such ornaments contain any precious or semi-precious stones and whether or not such ornaments are worked or sewn into any wearing apparel;
- precious or semi precious stones whether or not set in any furniture, utensil or other article or worked or sewn in any wearing apparel. E.g. loose diamond shall be treated as jewellery.

➤ ***Treatment of profit on sale of personal effect***

Any income on transfer of personal effect shall not be treated as capital gain. Such income is in the nature of capital receipt and hence shall not be taxed under any head.

(3) ***Agricultural land in rural area***

Agricultural land in **India** is not a capital asset **except** the following –



- a. land which is situated within the jurisdiction of any Municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or Cantonment Board having population of 10,000 or more; or
- b. in any area within the distance, measured aerially,—

Population of the municipality or cantonment board	Area within the aerial distance from the local limits of such municipality or cantonment board is non-rural area
More than 10,000 but not exceeding 1,00,000	Upto 2 kilometres
More than 1,00,000 but not exceeding 10,00,000	Upto 6 kilometres
More than 10,00,000	Upto 8 kilometres

**Notes**

- i. Population, according to the last preceding census of which the relevant figures have been published before the first day of the tax year, shall be considered.
- ii. If such land is not agricultural land, it will be treated as capital asset irrespective of its location.
- iii. If agricultural land is located outside India, it will be treated as capital asset.

**Treatment of profit on sale of agricultural land in rural area of India**

Profit on sale of agricultural land in rural area shall not be treated as capital gain. Such income is in the nature of capital receipt and hence shall not be taxed under any head.

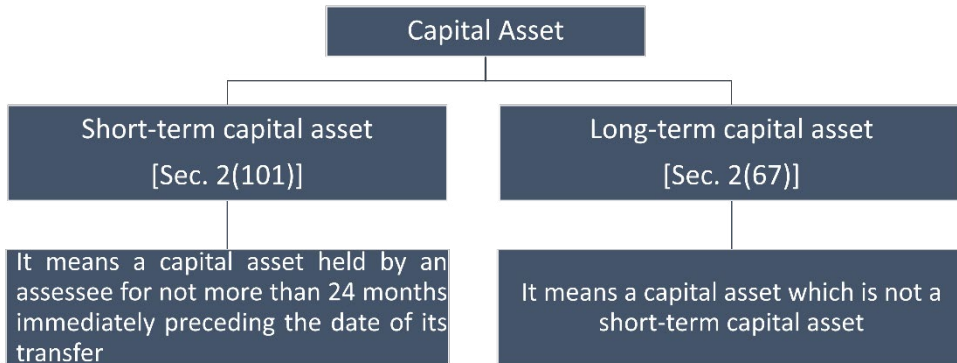
**(4) Gold Deposit Bonds**

Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government are not capital asset.

**Taxpoint**

- **Listed Shares:** Taxpayers can treat profits from listed shares held for more than 12 months as Capital Gains without dispute from the Assessing Officer, provided this stance is maintained consistently in future years and the transactions are genuine (*Circular No. 6/2016 dated 29-02-2016*).
- **Unlisted Shares:** Income from the sale of unlisted shares is uniformly classified as Capital Gains regardless of the holding period, specifically to avoid litigation and ensure a uniform approach (*Letter F.No. 225/12/2016/ITA.II dated 02-05-2016*).

**Types of Capital Asset**



### Exceptions

In the following cases, an asset will be termed as a short-term capital asset if it is held for not more than 12 months immediately before the date of transfer:

- Security (listed in India)
  - Securities includes
    - shares, scrips stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or a pooled investment vehicle or other body corporate;
    - derivative;
    - units or any other instrument issued by any collective investment scheme to the investors in such schemes;
    - Government securities
    - units or any other instrument issued by any pooled investment vehicleHowever, securities shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer
- A unit of an equity oriented fund<sup>1</sup> (whether quoted or not)

<sup>1</sup> "Equity Oriented Fund" means a fund set up under a scheme of a mutual fund specified in Schedule VII (Table S. No. 20 or 21) or under a scheme of an insurance company comprising unit linked insurance policies to which exemption in Schedule II (Table S. No. 2) does not apply and:

- i. in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange:
  - A. a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and
  - B. such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and
- ii. in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange.

#### Taxpoint:

- The percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.
- In case of a scheme of an insurance company comprising ULIP to which exemption in Schedule II (Table S. No. 2) does not apply, the minimum requirement of 90% or 65%, as the case may be, is required to be satisfied

- |   |
|---|
| <ul style="list-style-type: none"> <li>• Zero-Coupon Bonds (whether quoted or not)</li> </ul> |
| <ul style="list-style-type: none"> <li>• Units of UTI (whether quoted or not)</li> </ul>      |
| <ul style="list-style-type: none"> <li>• Units of listed debt-oriented mutual fund</li> </ul> |

Short-term capital gain (STCG) arises on the transfer of short-term capital assets (STCA) and long-term capital gain (LTCG) arises on the transfer of long-term capital assets (LTCA).

**Exception**

- Any gain on transfer of an asset on which depreciation is allowed as per WDV method u/s 33 shall be taxable as short-term capital gain (irrespective of their period of holding) [Sec. 74].
- Capital gains arising from the transfer of
  - a. market-linked debentures; or
  - b. units of a specified mutual fund (being acquired on or after 01-04-2023); or
  - c. unlisted bond; or
  - d. unlisted debenture,

shall always be treated as short-term capital gains irrespective of the period of holding of such assets [Sec. 76]

- *Market Linked Debenture* means a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any security classified or regulated as a market linked debenture by the SEBI;
- *Specified Mutual Fund* means a Mutual Fund, by whatever name called, which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of such Mutual Fund, subject to the following:—
  - i. the percentage of investment in debt and money market instruments or in units of a fund shall be computed with reference to the annual average of the daily closing figures;
  - ii. debt and money market instruments shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India

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throughout the term of such insurance policy.

## Period of holding

While computing the period of holding of any capital asset, the following points are to be considered to decide the nature of asset, whether short term or long term –

Case	Period of Holding
Shares held in a company in liquidation	The period subsequent to the date on which the company goes into liquidation shall be excluded
Date of transfer	For calculating the period of holding of a capital asset, the date on which the asset is transferred is to be excluded.
Capital asset which becomes the property of the assessee in the circumstances mentioned in 73(1)(Table: Sl. No. 1) [i.e., gift, will, succession, inheritance, partition of HUF, etc.	Holding period of previous owner should be considered
Allotment of shares in amalgamated Indian company for shares held in amalgamating company	Start from the date of acquisition of shares in the amalgamating company
Shares to the shareholders of the demerged company issued by the resulting company in a scheme of demerger	Start from the date of acquisition of shares in the demerged company
Membership right held by a member of recognised stock exchange	Start from the date of becoming member of stock exchange
Unit of a business trust [allotted pursuant to transfer of shares as referred to in sec. 70(1)(zi)	Include the period for which shares were held by the assessee
Units which become the property of the assessee in consideration of transfer referred to in sec. 70(1)(zj)	Include the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee
Conversion of preference shares into equity shares	Includes the period for which the preference shares were held by the assessee
Units held by an assessee in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of units, in the consolidated plan of that scheme of the mutual fund	Include the period for which the units in the consolidating plan of the mutual fund scheme were held by him

Units held by an assessee in segregated portfolio referred to in sec. 73(1) (Table Sl. No. 11)	Include the period for which the original units in the main portfolio were held by the assessee
Electronic Gold Receipt issued in respect of gold deposited as referred to in sec. 70(1)(y)	Include the period for which such gold was held by the assessee prior to conversion into the Electronic Gold Receipt
Gold released in respect of an Electronic Gold Receipt as referred to in sec. 70(1)(y)	Include the period for which such Electronic Gold Receipt was held by the assessee prior to its conversion into gold
Conversion of inventory into a capital asset	Starts from the date of its conversion into capital asset
Right shares	Starts from the date of allotment of right shares
Right entitlement	Starts from the date of offer to subscribe to shares
Bonus shares	Starts from the date of allotment of bonus shares
Sweat equity shares allotted by employer	Starts from the date of allotment or transfer of such equity shares
Shares in a company [acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in sec. 209(1) (Table Sl. No. 2) held by such assessee	Starts from the date on which a request for such redemption was made

### Transfer [Sec. 2(109)]

Transfer in relation to a capital asset includes:

- a) Sale, Exchange & Relinquishment of the asset;
- b) Extinguishment of any right therein;
- c) Compulsory acquisition thereof under any law;
- d) Conversion of asset into stock-in-trade by the owner;
- e) Maturity or redemption of a zero coupon bond
- f) Any transaction which has the effect of transferring or enabling the enjoyment of any immovable property.
- g) Any transaction of immovable property u/s 53A of the Transfer of Property Act, 1882;
- h) disposing of, or parting with, an asset or any interest therein, or creating any interest in any asset in any manner, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India)

or otherwise, irrespective of whether such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India

- *Any direct or indirect method of giving up control or rights to an asset—even by selling shares of a foreign holding company to indirectly transfer the underlying Indian assets—is treated as a "transfer" for tax purposes, regardless of how or where the deal is structured*

**Taxpoint:**

- Above definition is indicative and not exhaustive
- Above definition is applicable only in relation to capital assets and not otherwise.
- For the purposes of this provision, the term "immovable property" is defined to include not just the physical real estate, but also bundled assets and indirect ownership rights. It includes:

- a. **Composite Transfers (Physical Property & Attached Assets):** If the real estate is transferred together with other assets—such as machinery, plant, furniture, or fittings—as a single package or composite arrangement, all such accompanying assets & the rights to them are legally treated as part of the immovable property.
- b. **Indirect Ownership and Allotment Rights:** Any rights in or with respect to a real estate property (whether fully constructed or still under construction), even if it includes attached assets like furniture or fittings. This covers rights acquired through non-traditional transfers, such as:
  - Acquiring membership or shares in a co-operative society, company, or association of persons (e.g., society flats).
  - Any other agreement or arrangement that grants the right to use or enjoy the property.

### Transactions not regarded as transfer (Sec. 68 & 70)

By virtue of sec. 68(1) and sec. 70, following *transactions do not constitute transfer for the purpose of capital gain* -

Sec.	Transaction not treated as transfer
68(1)	Distribution of assets in kind by a company to its shareholders on its liquidation
70(1)(a)	Any distribution of capital assets in kind by HUF to its members at the time of total or partial partition
70(1)(b)	Any transfer of a capital asset by an individual/HUF under a gift or will or an irrevocable trust
70(1)(c)	Any transfer of a capital asset (not being stock-in-trade) by a company to its wholly-owned Indian subsidiary company

<b>70(1)(d)</b>	Any transfer of a capital asset (not being stock-in-trade) by a wholly-owned subsidiary company to its Indian holding company
<b>70(1)(e)</b>	Any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the Indian amalgamated company
<b>70(1)(f)</b>	Any transfer by a shareholder, in a scheme of amalgamation of share(s) held by him in the amalgamating company, if the transfer is made in consideration of the allotment to him of any share(s) in the Indian amalgamated company (except where the shareholder itself is the amalgamated company)
<b>70(1)(g)</b>	Any transfer of shares in Indian company held by a foreign company to another foreign company in pursuance of a scheme of amalgamation between the two foreign companies, if <ol style="list-style-type: none"> <li>a. at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; &amp;</li> <li>b. such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated</li> </ol>
<b>70(1)(h)</b>	Any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in sec. 9(10)(a), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if— <ol style="list-style-type: none"> <li>a. at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; &amp;</li> <li>b. such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated</li> </ol>
<b>70(1)(i)</b>	Any transfer in a scheme of amalgamation of a banking company with a banking institution
<b>70(1)(j)</b>	Any transfer in a demerger, of a capital asset by the demerged company to the Indian resulting company
<b>70(1)(k)</b>	Any transfer or issue of shares by the resulting company in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking
<b>70(1)(l)</b>	Any transfer of shares held in an Indian company by a demerged foreign company to the resulting foreign company if the following conditions are satisfied:— <ol style="list-style-type: none"> <li>a. the shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and</li> </ol>

	b. such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated
<b>70(1)(m)</b>	Any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in sec. 9(10)(a), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if,— a. the shareholders, holding not less than 75% in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and b. such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated
<b>70(1)(n)</b>	Any transfer in a business reorganization, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or the converted banking company
<b>70(1)(o)</b>	Any transfer by a shareholder, in a business reorganization, of capital asset (being shares held by him in the predecessor co-operative bank) if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank or the converted banking company
<b>70(1)(p)</b>	Any transfer of a capital asset, being bonds or GDRs as referred to in sec. 209(1), made outside India by a non-resident to another non-resident
<b>70(1)(q)</b>	Any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident
<b>70(1)(r)</b>	Any transfer of capital asset, being bonds/GDR referred to in sec. 209(1) or rupee denominated bond of an Indian company or derivative or securities notified by the Central Government, made by a non-resident on a recognised stock exchange located in any international financial services centre and where the consideration is paid/payable in foreign currency
<b>70(1)(s)</b>	Any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident
<b>70(1)(t)</b>	Any transfer, in a relocation, of a capital asset by the original fund to the resulting fund
<b>70(1)(u)</b>	Any transfer by a shareholder or unitholder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund
<b>70(1)(v)</b>	Any transfer of capital asset by India Infrastructure Finance Company Ltd. to an institution established for financing the infrastructure and development (set up under an Act of Parliament and notified by the Central Government)

<b>70(1)(w)</b>	Any transfer of capital asset, under a plan approved by the Central Government, by a public sector company to a notified public sector company or to Central/State Government
<b>70(1)(x)</b>	Any transfer by way of redemption, of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015 or any subsequent Sovereign Gold Bond Scheme, if held by an individual from the date of original issue till maturity
<b>70(1)(y)</b>	Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a vault manager, or conversion of Electronic Gold Receipt into gold
<b>70(1)(z)</b>	Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificate in any form, of a company into shares or debentures of that company
<b>70(1)(za)</b>	Any transfer by way of conversion of bonds referred to in sec. 209(1) [Table S. No. 1] into shares or debentures of any company
<b>70(1)(zb)</b>	Any transfer by way of conversion of preference shares of a company into equity shares of that company
<b>70(1)(zc)</b>	Any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any other such public museum or institution as may be notified by the Central Government
<b>70(1)(zd)</b>	Transfer of a capital asset or intangible asset to the company where a firm is succeeded by a company in the business carried on by it subject to the following conditions— <ul style="list-style-type: none"> <li>a. all the assets and liabilities of the firm relating to the business immediately before the succession shall become the assets and liabilities of the company;</li> <li>b. all the partners of the firm immediately before the succession, become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession;</li> <li>c. the partners of the firm do not receive any consideration or benefit directly or indirectly, in any form or manner other than by way of allotment of shares in the company; and</li> <li>d. the aggregate of the shareholding in the company of the partners of the firm is not less than 50% of the total voting power in the company and their shareholding continues to be as such for a period of 5 years from the date of succession</li> </ul>
<b>70(1)(ze)</b>	Transfer of a capital asset by a private company/unlisted public company to a limited liability partnership (LLP), or any transfer of a share or shares held

	<p>in the company by a shareholder, as a result of conversion of the company into LLP in accordance with sec. 56 and 57 of the Limited Liability Partnership Act, subject to the following conditions —</p> <ol style="list-style-type: none"><li>all assets and liabilities of the company immediately before conversion should become the assets and liabilities of the LLP at the time of conversion;</li><li>all the shareholders of the company immediately before the conversion should become the partners of the LLP and their capital contribution and profit sharing ratio in the LLP are in the same proportion as their shareholding in the company on the date of conversion;</li><li>no consideration would be paid by LLP to the company, the shareholders of the company should not receive any consideration or benefit (directly or indirectly) other than by way of share in profit and capital contribution in the LLP;</li><li>the aggregate of the profit sharing ratio of the shareholders of the predecessor company in the LLP shall not be less than 50% immediately after conversion and at the time during the period of 5 years from the date of conversion;</li><li>the total sales, turnover or gross receipts in business of the company in any of the 3 tax years preceding the tax year in which the conversion takes place should not be more than ₹ 60 lakh;</li><li>the total value of the assets (as appearing in the books of account of the company) in any of the 3 tax years preceding the tax year in which the conversion takes place does not exceed ₹ 5 crore; and</li><li>no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion</li></ol>
<b>70(1)(zf)</b>	<p>Any transfer of a capital asset or intangible asset (by way of sale or otherwise) by a sole proprietorship concern to a company in case of succession of the sole proprietorship concern by the company in the business carried on by it, subject to the following conditions -</p> <ol style="list-style-type: none"><li>all assets and liabilities of the sole proprietary concern relating to the business immediately before the succession shall become the assets and liabilities of the company;</li><li>the shareholding of the sole proprietor in the company is not less than 50% of the total voting power in the company and shareholding shall continue to so remain for a period of 5 years from the date of the succession;</li><li>the sole proprietor does not receive any consideration or benefit directly or indirectly, in any form or manner other than by way of allotment of shares in the company</li></ol>

<b>70(1)(zg)</b>	Any transfer involved in a scheme for lending of any securities under an agreement or arrangement subject to the guidelines issued by the Securities and Exchange Board of India, or the Reserve Bank of India in this regard, which the assessee has entered into with the borrower of such securities
<b>70(1)(zh)</b>	Any transfer of capital asset in a reverse mortgage under a scheme notified by the Central Government
<b>70(1)(zi)</b>	Any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor
<b>70(1)(zj)</b>	Any transfer by a unitholder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund, if the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund
<b>70(1)(zk)</b>	Any transfer by a unitholder of units held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of units, in the consolidated plan of that scheme of the mutual fund
<b>70(1)(zl)</b>	Any transfer of a capital asset (being an interest in a joint venture) held by a public sector company, in exchange of shares of a company incorporated outside India by the Government of a foreign State, in accordance with the laws of that foreign State

### Computation of Capital Gains [Sec. 72]

**Short-term Capital Gain** means the gain arising on transfer of short-term capital asset [Sec. 2(102)].

**Long-term Capital Gain** means the gain arising on transfer of long-term capital asset [Sec. 2(68)].

#### Computation of Capital Gain

At a glance, computation of capital gain of \_\_\_\_\_ for the Tax Year .....

Particulars	De-tails	Amount
Full value of consideration		****
<i>Less:</i> Expenses on transfer		****
Net sale consideration		****
<i>Less:</i> i) Cost of acquisition	****	
ii) Cost of improvement	****	****

Short Term Capital Gain / Long Term Capital Gain	****
Less: Exemption u/s 82 to 88 (for STCG – sec. 83, 84, 87 & 88)	(****)
Taxable Short Term Capital Gain / Taxable Long Term Capital Gain	*****

**Taxpoint:**

- No deduction shall be allowed in computing the income chargeable under the head “Capital gains” in respect of
- any sum paid on account of securities transaction tax.
  - Interest claimed as deduction u/s 22(1)(b) or under chapter VIII

The meaning of terms used in the computation:

**(i) Full value of consideration**

It refers to whole consideration received or accruing in lieu of transfer of such capital asset (in the form of money or money’s worth).

**Consideration in installments:** In case, consideration is receivable in installment in different years, the entire value of the consideration shall be taxable in the year of transfer.

**Fair market value deemed to be full value of consideration in certain cases [Sec. 80]:** Where the consideration received or accruing from the transfer of a capital asset is not ascertainable or cannot be determined, then, its fair market value on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer for the purpose of computation of capital gain.

Fair market value in relation to a capital asset, means:

- a. the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date; and
- b. where the price referred above is not ascertainable, such price as determined in the manner, as may be prescribed

Further, in a few cases, the notional full value of consideration is considered.

### Notional Full Value of Consideration

In some cases, notional sale value is considered rather than actual sale value e.g.

Section	Case	Deemed value of consideration
67(2) / (3)	Insurance claim received on damage or destruction of capital asset	Compensation received in cash or fair market value (as on date of receipt) of assets received as compensation.
67(6)	Conversion of capital assets into stock in trade	Fair market value of the asset as on date of such conversion.

67(9)	Transfer of capital assets by a partner/member to firm / AOP / BOI as capital contribution	The amount recorded in books of account of the firm/AOP/BOI, as value of such assets.
67(10)	Distribution of capital asset by firm / AOP / BOI to its partners / members on its dissolution	Fair market value of the asset as on the date of transfer
67(14)	Transfer by an individual / HUF of land / building under a joint development agreement to a developer	Stamp duty Value (as on the date of issuance of completion certificate) of share of the owner in the property + Cash Consideration
68(2)	Assets received by shareholders on liquidation	Money so received or the market value of other assets on the date of distribution, as reduced by the amount assessed as dividend u/s 2(40)(c)
78	Transfer in case of land or building or both	Value determined for payment of stamp duty (if consideration declared by the assessee is less by specified amount)
79	Transfer of unlisted shares in a company at less than fair market value	Fair market value of such shares as per prescribed method
80	Where the consideration is not ascertainable	Fair market value of the said asset on the date of transfer
Detail study shall be made in respective sections, later in this chapter.		

***(ii) Expenses on transfer***

It means any expenditure incurred wholly and exclusively in connection with such transfer such as, brokerage or commission incurred for securing buyer, cost of stamp and registration fee by the vendor, traveling expenses, etc. It is reduced from sale consideration to get net sale consideration.

**Taxpoint**

- a) Expenditure must be necessary to affect the transaction and should not be vague
- b) Expenditure on transfer may be incurred prior to or after completion of transfer
- c) If expenditure has been allowed as deduction under any other heads of income then the same cannot be claimed as deduction u/s 72.
- d) Securities Transaction Tax is not deductible.

***(iii) Cost of Acquisition***

Cost of acquisition includes expenditure incurred for acquiring the asset or completing the title of the asset. For instance –

- Sum paid for discharge of mortgage debt to clear charge over the property (created by previous owner) is a part of cost of acquisition.
- Litigation expenditure incurred by a shareholder to get the shares registered in his name will form part of cost of acquisition of shares.

However, the following shall **not** form part of the cost of acquisition:

- The cost of acquisition of the asset or the cost of improvement thereto would not include the deductions claimed on interest u/s 22(b) or under the provisions of Chapter VIII.
- No deduction in respect of STT

**(iv) Cost of Improvement [Sec. 90(1)]**

Cost of improvement means an expenditure incurred to increase the productive quality of the asset. It includes all expenditures of a capital nature incurred in making any additions or alterations to the capital asset.

**Taxpoint:** Any expenditure which is deductible in computing the income chargeable under any other head of income (or deduction under chapter VIII) shall not be treated as cost of improvement.

**Treatment of assets acquired before 1/4/2001**

<b>Cost of acquisition</b>	<p>If an asset is acquired before 1/4/2001 then the cost of acquisition shall be higher of the following:</p> <p><b>a)</b> Actual cost of acquisition (ignoring cost of improvement incurred before 1/4/2001); or</p> <p><b>b)</b> Fair market value of the asset as on 1/4/2001</p> <p><b><u>Note:</u></b> In case of a capital asset, being land or building or both, the fair market value of such asset on 01-04-2001 shall not exceed the stamp duty value, wherever available, of such asset as on 01-04-2001.</p> <p><b><u>Exception:</u></b> The option is not available in case of –</p> <ul style="list-style-type: none"> <li>• Asset on which depreciation is allowed on the block u/s 33;</li> <li>• Self generated assets (other than bonus share)</li> </ul>
<b>Cost of improvement</b>	<p>Any cost of improvement incurred by the assessee or the previous owner before 1/4/2001 shall not be considered.</p>

**Illustration 1**

Mr. Divesh had purchased a golden ring as on 17/8/2025 for ₹ 20,000. On 1/05/2026, he has sewn a diamond on it costing ₹ 25,000. On 1/08/2026, he sold such ring for ₹ 80,000 and incurred brokerage for arranging customer ₹ 5,000. Compute capital gain.

**Solution**

Computation of capital gain of Mr. Divesh for the tax year 2026-27

Particulars	Details	Amount
Full value of consideration		80,000
<i>Less:</i> Expenses on transfer		5,000
Net sale consideration		75,000
<i>Less:</i> i) Cost of acquisition	20,000	
ii) Cost of improvement	25,000	45,000
<b>Short Term Capital Gain</b>		<b>30,000</b>

**Exempted Capital Gain**

Following capital gain is exempt

Schedule	Income	Condition
<b>Schedule II (Table S.N. 2)</b>	Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy	<p>However, instances where receipts from a life insurance policy are not exempt from tax:</p> <ul style="list-style-type: none"> <li>• <b>Keyman Insurance:</b> Any sum received under a Keyman Insurance Policy.</li> <li>• <b>Specific Medical/Disability Policies:</b> Any payout governed by sec. 127(4)</li> <li>• <b>Policies Issued between April 1, 2003, and March 31, 2012:</b> Proceeds from any policy where the annual premium payable in any year during the policy term exceeded 20% of the actual capital sum assured.</li> <li>• <b>Policies Issued on or after April 1, 2012:</b> Proceeds from any policy where the annual premium payable in any year during the policy term exceeds 10% of the actual capital sum assured.</li> <li>• <b>Special Policies Issued on or after April 1, 2013:</b> Proceeds from a policy covering a person with a disability or specified disease (as referred to in Sections 154 or 128), if the annual premium payable exceeds 15% of the actual capital sum assured.</li> </ul>

Schedule	Income	Condition
		<ul style="list-style-type: none"> <li>• <b>High-Premium ULIPs (Post Feb 1, 2021):</b> Receipts from Unit Linked Insurance Plans (ULIPs) issued on or after February 1, 2021, if the aggregate premium payable for any tax year during the term of the policy exceeds ₹ 2,50,000.</li> <li>• <b>High-Premium Traditional Policies (Post April 1, 2023):</b> Receipts from any life insurance policy (other than a ULIP) issued on or after April 1, 2023, if the aggregate premium payable for any tax year during the term of the policy exceeds ₹ 5,00,000.</li> </ul>
<b>Schedule II (Table S.N. 2)</b>	Any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964	
<b>Schedule II (Table S.N. 17)</b>	Capital gain on transfer of long term equity shares being shares in a BSE-500 Index of the Bombay Stock Exchange as on 1-03-2003	<ul style="list-style-type: none"> <li>➤ The shares were purchased between 01-03-2003 and 29-02-2004</li> <li>➤ Transfer should be made through recognized stock exchange</li> </ul>
<b>Schedule III (Table S.N. 18)</b>	Capital gains (short term or long term) arising from the transfer of agricultural land <b><i>Taxpoint:</i></b> Interest on delayed compensation is not exempt	<ol style="list-style-type: none"> <li>Assessee is an individual or HUF</li> <li>Assessee has transferred urban agricultural land (being a capital asset).</li> <li>Such land was used for agricultural purposes by such HUF or individual or his parents during the period of 2 years immediately preceding the date of transfer.</li> <li>Such land is transferred:                             <ol style="list-style-type: none"> <li>by way of compulsory acquisition under any law; or</li> <li>for a consideration for which is determined or approved by the Central Government or the Reserve Bank of India;</li> </ol> </li> <li>The compensation or consideration for such transfer is received by such assessee after 31/03/2004.</li> </ol>

Schedule	Income	Condition
<b>Schedule III (Table S. N. 38C)</b>	Any income in respect of any award or agreement made on account of compulsory acquisition of any land	a. Assessee is an individual or HUF. b. Such award or agreement is made under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, except u/s 46 of the said Act.
<b>Schedule III (Table S. N. 38D)</b>	Any income chargeable under the head “Capital gains” arising from the transfer of specified capital asset.	a. Assessee is an individual or HUF b. He was the owner of such specified capital asset as on 02-06-2014; c. Such specified capital asset is transferred under the Land Pooling Scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 and the rules, regulations and Schemes made under the said Act; and d. Such eligible person was handed over possession of reconstituted plot or land on or before 31-03-2031.

## Tax on Capital Gain

### A. Tax on short term capital gain (STCG)

**Tax on STCG on transfer of certain assets on which Security transaction tax has been charged [Sec. 196]**

#### **Applicable to**

All assessee

#### **Conditions to be satisfied**

- Nature of asset:** A short-term capital asset, being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust.
- Securities transaction tax:** Such transaction is chargeable to securities transaction tax.

#### **Tax rate**

Such STCG shall be taxed @ 20% + surcharge + Health and Education Cess

#### **Taxpoint**

- Concessional rate shall be applicable on short term capital gain arises from a transaction undertaken in a foreign currency on a recognised stock exchange located in any International Financial Services Centre even though STT is not applicable on such

transaction

2. No deduction under chapter VIII is available from such short term capital gain.
3. In the case of an individual or an HUF being a **resident**, where the total income as reduced by such short-term capital gains is below the basic exemption limit, then such short-term capital gains shall be reduced by the amount by which the total income so reduced falls short of such exempted ceiling and the tax on the balance of such short-term capital gains shall be computed @ 20%.

**Taxpoint:** Where the total income as reduced by such short-term capital gains is below the exempted ceiling, then tax on such short-term capital gains shall be –

20% of [Such STCG – (Exempted ceiling – Total income excluding such STCG)].

### **Illustration 2**

Short term capital gain on transfer of shares on which STT is paid	₹ 1,30,000
Other income	₹ 3,86,000

Calculate tax of Mr. X aged 45 years (a) if he is a resident; (b) if he is a non-resident?

### **Solution**

Computation of tax for the tax year 2026-27

Particulars	If X is a resident		If X is a non-resident
	Other income	STCG	
Income	₹ 3,86,000	₹ 1,30,000	₹ 1,30,000
Basic Exemption limit (₹ 4,00,000)	₹ 3,86,000	₹ 14,000	-
	Nil	₹ 1,16,000	₹ 1,30,000
Tax rate	Nil	20%	20%
Tax	Nil	₹ 23,200	₹ 26,000
Less: Rebate u/s 156		NA	NA
Tax after Rebate u/s 156		₹ 23,200	₹ 26,000
Add: Health & Education Cess		₹ 928	₹ 1,040
<b>Tax Liability (Rounded off)</b>	Nil	₹ 24,130	₹ 27,040

**Short-term capital gain in any other case:** In any other case, short-term capital gain is to be taxed as per usual rates, as applicable to any other income.

## **B. Tax on Long Term Capital Gain (LTCG)**

**Tax on long term capital gain in certain cases [Sec. 198]**

**Applicable to:** All assessee

**Conditions:**

- a) The total income of the assessee includes income chargeable under the head "Capital gains";

- b) The capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust;
- c) Securities Transaction Tax (STT) has been levied:

Capital Asset	STT has been paid
Equity share in a company	STT has been paid on <b>acquisition</b> and <b>transfer</b> of such capital asset. <b>Exception:</b> In the following cases, condition of levying STT on <b>acquisition</b> is not applicable: a) Equity share acquired before 01-10-2004 b) The nature of acquisition which is notified
Unit of an equity-oriented fund or a unit of a business trust	STT has been paid on <b>transfer</b> of such capital asset

**Taxpoint:**

- The condition of payment of STT in either case is not applicable in case where transfer has been undertaken on a recognised stock exchange located in any International Financial Services Centre provided the consideration for such transfer is received or receivable in foreign currency.
- The requirement to pay Securities Transaction Tax (STT) at the time of acquiring equity shares is waived for the following notified cases [Notification No. 60/2018 dated 01-10-2018]
  - Acquisitions through an issue of shares directly by a company.
  - Acquisitions under an Employee Stock Option Plan (ESOP).
  - Acquisitions made directly from the Government
  - Acquisitions approved by the Supreme Court, High Court, National Company Law Tribunal (NCLT), SEBI, or RBI.
  - Acquisitions by a non-resident as per Foreign Direct Investment (FDI) guidelines of the Indian Government.
  - Acquisitions by an investment fund referred to in sec. 224
  - Acquisitions through a preferential issue to which Chapter VII of the SEBI (Issue of Capital and Disclosure Requirements) Regulations does not apply.
  - Acquisitions by scheduled banks, reconstruction companies, securitisation companies, or public financial institutions during their ordinary course of business.
  - Acquisitions governed by the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations.
  - Acquisitions via specific modes of transfer [sec. 67(9)/10, 70, and 77], provided the previous owner also acquired the shares through one of the exempt modes listed above.

**Treatment**

Such long-term capital gain shall be taxable as under:

Case	Rate of Taxation
Such long term capital gain does not exceed ₹ 1,25,000	Nil
Such long term capital gain exceeds ₹ 1,25,000	12.5% <sup>3</sup> on income exceeding ₹ 1,25,000

**Taxpoint:**

- Irrespective of regime opted by the assessee, rebate u/s 156 is not available from tax on aforesaid long term capital gain.
- In the case of resident individual or resident Hindu undivided family, where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, the long-term capital gains, shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax [See Example 1 & 2 below]

**Computation of cost of acquisition of such capital assets in certain cases**

The cost of acquisition for the long-term capital asset acquired on or before 31st of January, 2018 will be higher of the following:

- a. the cost of acquisition of such asset;
- b. the lower of –
  - A. the fair market value of such asset as on 31/01/2018<sup>4</sup>;
  - B. the full value of consideration received or accruing as a result of the transfer of the capital asset

**Taxpoint:**

- The holding period will be counted from the date of acquisition
- Loss is allowed to be carried forward.
- The cost of acquisition of bonus shares acquired before 31st January, 2018 will be determined as per aforesaid rule. Therefore, the fair market value of the bonus shares as on 31st January, 2018 will be taken as cost of acquisition (except in some situations explained in the following examples).

**Examples**

**Scenario 1** – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 200 on 31st of January, 2018 and it is sold on 1st of April, 2026 at ₹ 250.

<sup>3</sup> + Applicable Surcharge and Cess

<sup>4</sup> The highest price of the capital asset quoted on such exchange on 31/01/2018 shall be considered as fair market value. However, where as on 31-01-2018, the share was not listed, then FMV as of January 31, 2018, shall be computed by indexing the original cost of acquisition up to the Financial Year 2017-18 (calculated as: Original Cost × [CII of 2017-18 / CII of Acquisition Year])

As the actual cost of acquisition is less than the fair market value as on 31st of January, 2018, the fair market value of ₹ 200 will be taken as the cost of acquisition and the long-term capital gain will be ₹ 50 (₹ 250 – ₹ 200).

**Scenario 2** – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 200 on 31st of January, 2018 and it is sold on 1st of April, 2026 at ₹ 150. In this case, the actual cost of acquisition is less than the fair market value as on 31st of January, 2018. However, the sale value is also less than the fair market value as on 31st of January, 2018. Accordingly, the sale value of ₹ 150 will be taken as the cost of acquisition and the long-term capital gain will be NIL (₹ 150 – ₹ 150).

**Scenario 3** – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 50 on 31st of January, 2018 and it is sold on 1st of April, 2026 at ₹ 150. In this case, the fair market value as on 31st of January, 2018 is less than the actual cost of acquisition, and therefore, the actual cost of ₹ 100 will be taken as actual cost of acquisition and the long-term capital gain will be ₹ 50 (₹ 150 – ₹ 100).

**Scenario 4** – An equity share is acquired on 1st of January, 2017 at ₹ 100, its fair market value is ₹ 200 on 31st of January, 2018 and it is sold on 1st of April, 2026 at ₹ 50. In this case, the actual cost of acquisition is less than the fair market value as on 31st January, 2018. The sale value is less than the fair market value as on 31st of January, 2018 and also the actual cost of acquisition. Therefore, the actual cost of ₹ 100 will be taken as the cost of acquisition in this case. Hence, the long-term capital loss will be ₹ 50 (₹ 50 – ₹ 100) in this case.

**In any other case [Sec. 197]**

Long term capital gain is taxed @ 12.5% + Surcharge (if applicable) + Health & Education cess

**Tax Computation**

<b>a) In the case of an individual or a Hindu undivided family [a resident]—</b>	
<b>Where [Total Income - Long-term capital gains] &gt; Exempted ceiling</b>	
Tax on LTCCG	@ 12.5%
Tax on [Total income - such long-term capital gains]	As per the slab
<b>Where [Total Income - Long-term capital gains] &lt; Exempted ceiling</b>	
Tax on LTCCG – [Exempted ceiling – (Total Income - Long-term capital gains)]	@ 12.5%
Tax on [Total income - Long-term capital gains]	Nil
<b><u>Taxpoint:</u> Above method of computation is not applicable in case of non-resident.</b>	

**Example 1:** Mr. Janardan, a resident aged 52 years, has other income of ₹ 3,20,000 and LTCG on sale of jewellery ₹ 90,000. He shall be liable to tax as follows –

Computation of tax liability

Particulars	LTCG	Other income	Total
Taxable income	90,000	3,20,000	4,10,000
Exempted up to ₹ 4,00,000 <sup>#</sup> (₹ 4,00,000 – ₹ 3,20,000)	80,000 <sup>#</sup>	3,20,000	4,00,000
Balance	10,000	Nil	10,000
Tax rate	12.5%	Slab	
<b>Tax liability before rebate</b>	<b>1,250</b>	<b>Nil</b>	<b>1,250</b>
Less: Rebate u/s 156			NA
<b>Tax payable</b>			<b>1,250</b>
Add: Health & Education Cess			50
<b>Tax Liability (Rounded off)</b>			<b>1,300</b>

In the aforesaid case, if the assessee has opted for old tax regime, computation would be as under:

Particulars	LTCG	Other income	Total
Taxable income	90,000	3,20,000	4,10,000
Exempted up to ₹ 2,50,000	Nil	2,50,000	2,50,000
Balance	90,000	70,000	1,60,000
Tax rate	12.5%	5%	
<b>Tax liability before rebate</b>	<b>11,250</b>	<b>3,500</b>	<b>14,750</b>
Less: Rebate u/s 156 as income does not exceed ₹ 5 lakh			12,500
<b>Tax payable</b>			<b>2,250</b>
Add: Health & Education Cess			90
<b>Tax Liability (Rounded off)</b>			<b>2,340</b>

**Example 2:** Mr. Nishith, a resident aged 40 years, has other income of ₹ 2,20,000 and LTCG u/s 198 ₹ 3,65,000. He shall be liable to tax as follows –

Computation of tax liability

Particulars	LTCG taxable u/s 198	Other income	Total
Taxable income	3,65,000	2,20,000	5,85,000
Exempted up to ₹ 4,00,000 <sup>#</sup> (₹ 4,00,000 – ₹ 2,20,000)	1,80,000 <sup>#</sup>	2,20,000	4,00,000
Balance	1,85,000	Nil	1,85,000
Tax rate applicable on income in excess of ₹ 1,25,000	12.5% <sup>@</sup>	Slab	
<b>Tax liability before rebate</b>	<b>7,500</b>	<b>Nil</b>	<b>7,500</b>
Less: Rebate u/s 156			NA

Tax after rebate			7,500
Add: Health & Education Cess			300
<b>Tax and Cess Payable</b>			<b>7,800</b>

**Example 3:** Joseph, a non-resident has LTCG on transfer of gold ₹ 1,00,000. He shall be liable to tax @ 12.5% on LTCG, i.e. ₹ 12,500 (₹ 1,00,000 x 12.5%) (plus cess), even total income does not exceed the maximum exempted limit.

Deduction under chapter VIII (i.e. u/s 123 to 154) is not available against LTCG.

### Exception to Computation of Tax on Long-Term Capital Gain (LTCG)

Where -

- The transferor is a resident individual or resident HUF;
- Long term capital gain arises on the transfer of long-term capital asset being land, building or both;
- Such asset may be residential or commercial or used for any other purpose; and
- Such asset was acquired before 23-07-2024;

then, the assessee has the option to pay tax:

**Option 1** – Pay tax @ 12.5% without considering index benefit

**Option 2** – Pay tax @ 20% after considering index benefit.

**Taxpoint:** The option is for computing tax liability on long-term capital gain but there is no option for computing long-term capital gain. In other words, long-term capital gain shall be computed without considering index benefit, however for the purpose of computing tax on long-term capital gain on an aforesaid capital asset, the assessee has options

#### Index Benefit

##### (i) Indexed cost of acquisition

“Indexed cost of acquisition” means the ‘cost of acquisition’ adjusted according to the price level of the year of sale. As per sec. 72(8), “Indexed cost of acquisition” is an amount which bears to the ‘cost of acquisition’ the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on 1/4/2001, whichever is later.

$$\text{Taxpoint: Cost of acquisition} \times \frac{\text{Index of the year of transfer}}{\text{Index of the year of acquisition}}$$

##### (ii) Indexed cost of improvement

“Indexed cost of improvement” means the ‘cost of improvement’ (as discussed in case of short term capital gain) adjusted according to the price level of year of sale. As per sec. 72(8), “indexed cost of any improvement” is an amount, which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place

$$\text{Taxpoint: Cost of improvement} \times \frac{\text{Index of the year of transfer}}{\text{Index of the year of improvement}}$$

### **(iii) Cost Inflation Index**

Cost inflation index, in relation to a tax year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding tax year to such tax year, by notification in the Official Gazette, specify, in this behalf. Cost Inflation Index for different financial years is as follows:

Financial Year	Index	Financial Year	Index	Financial Year	Index
2001-02	100	2011-12	184	2021-22	317
2002-03	105	2012-13	200	2022-23	331
2003-04	109	2013-14	220	2023-24	348
2004-05	113	2014-15	240	2024-25	363
2005-06	117	2015-16	254	2025-26	376
2006-07	122	2016-17	264		
2007-08	129	2017-18	272		
2008-09	137	2018-19	280		
2009-10	148	2019-20	289		
2010-11	167	2020-21	301		

#### **Note:**

- Indexed cost of acquisition has to be ascertained with reference to the date of acquisition and not with reference to the date when such asset became a capital asset.
- Where an asset is acquired before 1/4/2001, then indexation benefit shall be available from the year 2001-02.

### **Illustration 3**

Mr. Anand, resident, has purchased a house property as on 17/08/2002 for ₹ 5,00,000. On 1/05/2004, he constructed a new floor on the same house at a cost of ₹ 2,50,000. On 1/10/2026, he sold such

house for ₹ 18,00,000 and incurred brokerage @ 2% for arranging customer. Compute capital gain. Assume that CII for financial year 2026-27 is 400

**Solution**

Where resident individual or resident HUF has transferred a long-term capital asset being land, building or both being acquired before 23-07-2024, then, the assessee has the option to pay tax:

**Option 1** – Pay tax @ 12.5% without considering index benefit

**Option 2** – Pay tax @ 20% after considering index benefit.

Computation of capital gain of Mr. Anand for the tax year 2026-27

Particulars	Option 1		Option 2	
	Details	Amount	Details	Amount
Full value of consideration		18,00,000		18,00,000
Less: Expenses on transfer [2% of 18,00,000]		36,000		36,000
Net sale consideration		17,64,000		17,64,000
Less: Indexed / Cost of acquisition [₹ 5,00,000 x 400 / 105]	5,00,000		19,04,762	
Less: Indexed / Cost of improvement [₹ 2,50,000 x 400 / 113]	2,50,000	7,50,000	8,84,956	27,89,718
<b>Long Term Capital Gain</b>		<b>10,14,000</b>		<b>(10,25,718)</b>
<b>Tax on above before surcharge and cess</b>		<b>1,26,750</b>		<b>Nil</b>

However, in either option long-term capital gain shall be ₹ 10,14,000 but the tax liability is

- Under Option 1 is ₹ 1,26,750
- Under Option 2 is Nil

Thus, his tax liability on this can be reduced to zero. However, loss of ₹ 10,25,718/- shall not be carried forward as his long-term capital gain shall be ₹ 10,14,000/- and tax on the said gain is nil

**Illustration 4**

On 23<sup>rd</sup> June, 2026, Rajat sold gold, the sale consideration of which was ₹ 15,00,000. He had acquired this gold on 20<sup>th</sup> August, 2000 for ₹ 4,00,000. Fair market value of that gold on 1<sup>st</sup> April, 2001 was ₹ 3,60,000. Find out the amount of capital gain chargeable to tax for the tax year 2026-27.

**Solution**

Computation of capital gains of Rajat for the tax year 2026-27

Particulars	Working	Amount
Full Value of consideration		15,00,000
Less: Expenses on transfer		Nil
Net Sale consideration		15,00,000
Less: Cost of acquisition		4,00,000
<b>Long term capital gain</b>		<b>11,00,000</b>
<b>Tax before surcharge and cess [₹ 11,00,000 x 12.5%]</b>		<b>1,37,500</b>

In this case, assessee does not have any option to pay tax considering index benefit as the transferred asset is not an immovable property.

### **Conversion of an Indian branch of Foreign Company into Subsidiary Indian Company [Sec. 219(1)]**

Where a foreign company is engaged in the business of banking in India through its branch situated in India and such branch is converted into a subsidiary company thereof, being an Indian company (hereafter referred to as an Indian subsidiary company) in accordance with the scheme framed by the Reserve Bank of India (and subject to the conditions as may be notified by the Central Government), then,

- (a) The capital gains arising from such conversion shall not be chargeable to tax in the tax year in which such conversion takes place.
- (b) The provisions of this Act relating to treatment of unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in the case of the foreign company and the Indian subsidiary company shall apply with such exceptions, modifications and adaptations as may be specified in that notification.

#### ***Consequence of failure to Comply with any of the Conditions***

In case of failure to comply with any of the conditions specified in the scheme or in the notification, all the provisions of this Act shall apply to the foreign company and the said Indian subsidiary company without aforesaid benefit, exemption or relief.

#### ***Consequence of failure to Comply with any of the conditions after Claiming Benefit***

Where, in a tax year, any benefit, exemption or relief has been claimed and granted to the foreign company or the Indian subsidiary company and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification, then:

- (a) Such benefit, exemption or relief shall be deemed to have been wrongly allowed;
- (b) The Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said tax year and make the necessary amendment; and
- (c) The provisions of sec. 287 shall, so far as may be, apply thereto and the period of 4 years specified in that section being reckoned from the end of the tax year in which the failure to comply with the conditions takes place.

### **Deemed or Notional Cost of Acquisition [Sec. 73(1)]**

In the following cases, notional cost of acquisition shall be considered:

S.N	Capital Asset	Cost of acquisition
1.	If the capital asset became the property of the assessee:	Cost of acquisition to the previous owner

	<p>a. under a gift or will; or</p> <p>b. by succession, inheritance or devolution; or</p> <p>c. on any distribution of assets on the liquidation of a company; or</p> <p>d. under a transfer to a revocable or an irrevocable trust; or</p> <p>e. being a Hindu undivided family, by the mode referred to in sec. 99(3) after 31-12-1969; or</p> <p>f. under any such transfer as is referred to in section 70(1)(a), (c), (d), (e), (g), (h), (i), (j), (l), (m), (n), (o), (t), (u), (v), (w), (zd), (ze) or (zf) [See Tax-point given below this table]</p>	<p>However, if asset was acquired before 01-04-2001 (by assessee or by previous owner), cost shall be:</p> <p><b>a.</b> Cost of acquisition to the previous owner; or</p> <p><b>b.</b> fair market value as on 01-04-2001</p> <p>- whichever is higher</p> <p><b><u>Taxpoint:</u></b></p> <p>➤ Cost of improvement incurred (by assessee or previous owner) before 01-04-2001 shall be ignored.</p> <p>➤ Previous owner of the property for any capital asset owned by an assessee, means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred here</p>
2.	Allotment of share or shares in an amalgamated Indian company to the shareholder of the amalgamating company	Cost of acquisition of the share or the shares in the amalgamating company
3.	Conversion of debenture or bonds into shares u/s 70(1)(z)/(za)	That part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee
4.	Capital asset being specified security or sweat equity shares	Fair market value taken into account for computing value of perquisite under the head “Salaries”.
5.	Capital asset, being rights of a partner of the Limited Liability Partnership Act, 2008 which became the property of the assessee on conversion of company into LLP u/s 70(1)(ze)	Cost of acquisition of share or shares in the company immediately before its conversion.
6.	Capital asset, being share or shares of a company acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in section 209(1) (Table: Sl. No. 2) held by such assessee.	The price of the said share or shares prevailing on any recognised stock exchange on the date on which a request for redemption was made.
7.	Capital asset, being a unit of a business trust, which became the property of the assessee in consideration of a transfer of shares of special purpose vehicle as referred to in section 70(1)(zi).	The cost of acquisition of share of such special purpose vehicle

8.	Capital asset, being a unit or units in a consolidated scheme of a mutual fund, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(zj).	The cost of acquisition of the unit or units in the consolidating scheme of the mutual fund.
9.	Conversion of preference share in equity share of the company	That part of the cost of the preference shares in relation to which such asset is acquired.
10.	Capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(zk)	The cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.
11.	Capital asset being a unit or units in the segregated portfolio.	Computed as per the following formula:- $X = (A \times B) / C$ where,- X = cost of acquisition of the unit or units in segregated portfolio; A = cost of acquisition of unit or units in the total portfolio; B = Net Asset Value of the asset transferred to the segregated portfolio; and C = Net Asset Value of the total portfolio immediately before segregation of portfolios.
12.	Capital asset being original units held by the unit holder in the main portfolio.	The cost of acquisition of such original units as reduced by the amount as so arrived at under serial number 11.
13.	Capital asset, being shares as referred to in section 70(1)(zl) which became the property of the assessee.	The cost of acquisition to it of the interest in the joint venture referred to in the said clause.
14.	Shares in the resulting company as a result of demerger.	Computed as per the following formula:- $X = (A \times B) / C$ where,- X = cost of acquisition of shares in the resulting company; A = cost of acquisition of shares in demerged company; B = book value of assets transferred in demerger; and

		<p>C = net worth of demerged company immediately before demerger.</p> <p><b><i>Taxpoint:</i></b> <i>Net worth</i> means the total of the paid-up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger</p>
15.	Original shares held by the shareholder in the demerged company.	The cost of acquisition of such original shares as reduced by the amount so arrived at under serial number 14.
16.	Capital asset deemed to be chargeable to tax according to the provisions of sec. 71(1) [Withdrawal of exemption in case of transaction between holding-subsiary company]	Cost for which such asset was acquired by the transferee company.
17.	Capital asset which is covered u/s 92(2)(m)	Value taken into account u/s 92(2)(m) for determining income under the head “Income from Other Sources”
18.	Capital asset declared under the Income Declaration Scheme, 2016, where the tax, surcharge and penalty have been paid as per the provisions of such Scheme on the fair market value as on the date of the commencement of that Scheme.	The fair market value of the asset taken into account for the purposes of the said Scheme.
19.	Specified capital asset referred to in clause (c) of the Explanation to sec. 10(37A) of the Income-tax Act, 1961, which has been transferred after the expiry of two years from the end of the tax year in which the possession of such asset was handed over to the assessee.	The stamp duty value as on the last day of the second tax year after the end of the tax year in which the possession of the said specified capital asset was handed over to the assessee.
20.	Capital asset, being share in the joint development project, in the form of land or building, or both, u/s 67(14), not being a capital asset which is transferred before issuance of completion certificate as referred to in 67(16).	The amount deemed as full value of consideration u/s 67(14).
21.	Capital asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and tax paid thereon as per sec. 352.	The fair market value of the asset considered for computation of accreted income as on specified date as per section 352(2).

22.	Capital asset acquired through conversion of inventory	The fair market value of the asset at the time of such conversion
23.	Capital asset, being an Electronic Gold Receipt issued by a Vault Manager, which became the property of the person as consideration of a transfer, as referred to in sec. 70(1)(y).	The cost of gold for the person in whose name Electronic Gold Receipt is issued.
24.	Capital asset being gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer as referred to in sec. 70(1)(y).	The cost of the Electronic Gold Receipt for such person.
25.	Bonus Share	<i>Allotted before 01-04-2001</i> Fair Market Value as on 01-04-2001 <i>Allotted on or after 01-04-2001</i> Nil

### **Taxpoint**

Transaction referred to in 70(1)(a), (c), (d), (e), (g), (h), (i), (j), (l), (m), (n), (o), (t), (u), (v), (w), (zd), (ze) or (zf)

Sec.	Transactions
70(1)(a)	Distribution of a capital asset on total or partial partition of HUF
70(1)(c)	Transfer by a company to its 100% subsidiary company
70(1)(d)	Transfer by a company to its 100% holding company
70(1)(e)	Transfer in a scheme of amalgamation
70(1)(g)	Transfer of shareholding in a scheme of amalgamation of foreign companies
70(1)(h)	Transfer in a scheme of amalgamation of share in foreign company
70(1)(i)	Transfer in a scheme of amalgamation of banking companies
70(1)(j)	Transfer in a scheme of demerger
70(1)(l)	Transfer of shareholding in a scheme of demerger of foreign companies
70(1)(m)	Transfer in a scheme of demerger of share in foreign company
70(1)(n)	Transfer in a scheme of business reorganisation of co-operative banks
70(1)(o)	Transfer of shareholding in a scheme of business reorganisation of co-operative banks
70(1)(t)	Transfer in a re-location of capital asset by original fund to resulting fund
70(1)(u)	Transfer of shareholding/units in a re-location of assets by original fund to resulting fund

<b>70(1)(v)</b>	Transfer of capital asset by India Infrastructure Finance Co. to a notified institute
<b>70(1)(w)</b>	Transfer of capital asset by a public sector company to another public sector company/Government
<b>70(1)(zd)</b>	Transfer at the time of conversion of firm into a company
<b>70(1)(ze)</b>	Transfer at the time of conversion of private company/unlisted public company into an LLP
<b>70(1)(zf)</b>	Transfer at the time of conversion of a sole proprietary concern into company

**Various aspects of Sec. 73(1) discussed below:**

Cost of acquisition of an asset	Where cost of acquisition of previous owner is ascertainable.	Cost of acquisition of the previous owner.
	Where cost of acquisition of previous owner is unascertainable	The fair market value of the asset on the date on which the previous owner had acquired the same shall be deemed to be the cost of acquisition.
Improvement expenditure	Where a capital asset became the property of the assessee by any of the modes specified in sec. 73(1), cost of improvement includes improvement expenditure incurred by the previous owner.	
Period of holding	Period of holding of the previous owner shall be considered for classifying the asset into short term or long-term capital asset.	
Indexation benefit on cost of acquisition	<p>Indexation benefit shall be available from the year when the assessee / previous owner first held the property.</p> <p>However, in case of CIT –vs.- Manjula J Saha 16 Taxmann 42 (Bombay), the Hon’ble Bombay High Court has held that index benefit is available from the year in which asset was acquired by the previous owner or for the year beginning on the 1st day of April, 1981 (now 2001), whichever is later.</p> <p>In our computation, we will follow the decision of the Hon’ble Court.</p> <p><b><u>Taxpoint:</u></b> The index benefit is available only while computing tax liability in case when long term capital asset (being land or building or both) is transferred by a resident individual (or resident HUF) and he has opted for option 2 to pay tax on LTCG</p>	

Indexation benefit on cost of improvement	Indexation benefit shall be available from the year when the improvement expenditure incurred whether by current owner or by the previous owner. Further, improvement expenditure incurred before 01-4-2001 should be ignored. <b><u>Taxpoint:</u></b> The index benefit is available only while computing tax liability in case when long term capital asset (being land or building or both) is transferred by a resident individual (or resident HUF) and he has opted for option 2 to pay tax on LTCG
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### **Illustration 5**

Mrs. Parminder has jewellery, being gifted on 1/04/2005 by her brother Jitendar. Jitendar acquired such asset for ₹ 60,000 as on 1/07/1995. On 1/07/2002, Jitendar has sewn a diamond worth ₹ 25,000 in such jewellery. On 1/04/2009, Mrs. Parminder incurred polish expenditure on such jewellery costing ₹ 5,000. As on 1/04/2026, Mrs. Parminder sold such jewellery for ₹ 12,00,000. Brokerage @ 1% of sale value was paid by her. The fair market value of the jewellery as on –  
 1/04/2001 is ₹ 2,00,000;                      1/04/2005 is ₹ 5,00,000; and                      1/04/2026 is ₹ 7,50,000.  
 Compute capital gain in hands of Mrs. Parminder for the tax year 2026-27.

### **Solution**

Computation of capital gain for the tax year 2026-27

Particulars	Working	Details	Amount
Sale consideration			12,00,000
Less: Expenses on transfer	1% of ₹ 12,00,000		12,000
Net sale consideration			11,88,000
Less: i) Cost of acquisition		2,00,000	
ii) Cost of improvement		25,000	2,25,000
<b>Long Term Capital Gain</b>			<b>9,63,000</b>

### **Notes:**

1. Fair market value as on 1/04/2005 and 1/04/2026 are irrelevant.
2. Cost of acquisition shall be taken as cost of acquisition in the hands of the previous owner or fair market value as on 1/04/2001, whichever is higher.
3. Polish expenditure on jewellery does not amount to improvement as such expenditure is not a capital expenditure and does not increase value of the asset.
4. Index benefit is not available

### **In nutshell**

1. If an asset is acquired before 1/04/2001 then its cost of acquisition will be higher of a) Actual cost of acquisition or b) Fair market value of the asset as on 1/04/2001.
2. Any cost of improvement before 1/04/2001 shall not be considered.
3. In order to find out whether an asset is short term or long term capital asset, the period of holding of previous owner shall be considered

### Treatment of Advance money received and forfeited [Sec. 81]

Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset which is forfeited and the negotiations do not result in transfer of such capital asset, the forfeited amount shall be:

Year in which money forfeited	Tax Treatment
Upto Financial year 2013-14	Such forfeited sum shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition
Financial Year 2024-15 onwards	Taxable as “Income from Other Sources”

### Treatment of compensation paid by the transferor

If transferor commits default and transferee receives any compensation (apart from refund of advance money), then compensation received by the transferee shall be treated as sale consideration against transfer of (relinquishment of) purchasing right and charged to capital gain.

**Taxpoint:** Treatment of compensation paid by the transferor shall be as under –

Nature of asset transferred	Right to purchase
Nature of transfer	Relinquishment
Cost of acquisition	Nil
Sale consideration	Amount of compensation

### Deduction from Capital gain

From capital gain so computed, several deductions are allowed as per provisions of sec. 82 to 88. Provisions of these sections are discussed as under:

### Deduction from capital gain on sale of residential house property [Sec. 82]

Applicable to	Individual or HUF
Conditions	<ol style="list-style-type: none"> <li>1. Assessee has transferred a long-term residential house, income of which is taxable under the head “Income from house property”.</li> <li>2. Assessee must acquire <b>one</b> new <i>residential house</i> within prescribed time limit.</li> </ol>
	<i>Alternate Option</i>

	<p><b>When Available:</b> Where the amount of the capital gain does not exceed ₹ 2 crore.</p> <p><b>Option:</b> The assessee may, at his option, purchase or construct <b>two</b> residential houses in India</p> <p><b>Restriction:</b> Where during any tax year, the assessee has exercised this option, he shall not be subsequently entitled to exercise the option for the same or any other tax year. That means, the option is available once in lifetime of the assessee.</p>	
	<p>3. The new residential house should be in India.</p> <p><b>Taxpoint:</b></p> <ul style="list-style-type: none"> <li>➤ <i>Capital asset must be a long term capital asset.</i></li> <li>➤ <i>Property must be a residential house whether let-out or self occupied.</i></li> <li>➤ <i>Income of such property must be taxable u/s 20.</i></li> <li>➤ <i>Land transferred appurtenant to a house property (assessable u/s 20) together with such house property, also qualifies for deduction u/s 82.</i></li> <li>➤ <i>The new residential house(s) may not be taxable u/s 20.</i></li> </ul>	
Time limit for acquisition of new assets	For Purchase	Within a period of '1 year before, or 2 years after, the date of transfer' <i>Example:</i> If a property is transferred on 17/8/2026, then the new house property may be purchased at any time between 17/08/2025 to 17/8/2028.
	For Construction	Within a period of 3 years after the date of transfer. Construction may start at any time but must be completed within stipulated time
	Scheme of deposit	Applicable [Refer ' <i>Capital Gains Account Scheme</i> ' given below].
	In case of compulsory acquisition of such capital asset by the Government, the time limit shall start from receipt of compensation or part thereof.	
Deduction	Minimum of the following: <ul style="list-style-type: none"> <li>• Investment in the new asset(s); or</li> </ul> However, where the cost of a new asset exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore shall not be taken into account	

	<ul style="list-style-type: none"> <li>• Capital gain</li> </ul>
Revocation of benefit	<p><b><u>If the newly acquired residential house is transferred</u></b> within 3 years from the date of acquisition of new assets, then the benefit availed earlier shall be revoked. Such revoked income shall be reduced from cost of acquisition of new asset.</p> <p><b><u>If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized</u></b>, then such amount shall be taxable as long-term capital gain in the tax year in which the period of 3 years from the date of transfer expires.</p>

### **Taxpoint**

1. **Legal title of the house:** Holding of legal title is not necessary. It is sufficient that assessee has made the full (or substantial) payment within the time limit even though the transfer deed has not been registered and the possession is given after stipulated time.
2. **Transfer of part of house:** Deduction u/s 82 is available on sale of part of the house if the same is an independent unit.
3. **Treatment of Land:** The cost of land is integral part of the residential house.

### **Capital Gains Accounts Scheme, 1988**

Introduction	If the new asset is not acquired till the due date of submission of return of income, then the taxpayer will have to deposit the money <sup>5</sup> in 'Capital Gains Deposit Account' with a nationalized bank. The proof of deposit should be submitted along with the return of income. On the basis of actual investment and the amount deposited in the deposit account, deduction will be given to the taxpayer.
Utilisation of amount	The taxpayer is to acquire a new asset by withdrawing from the deposit account. New asset must be acquired within specified time, provided in the relevant section.
If deposit amount remains unutilized	The unutilized amount will become chargeable to tax in the tax year in which the specified time limit expires. Chargeable amount shall be – For sec. 82, 83, 84, 87, 88: Unutilised amount

<sup>5</sup> For sec. 82, maximum deposit in CGDS: lower of (a) capital gain or (b) ₹ 10 crore; as reduced by the amount invested in acquiring new asset till due date of filing return of income. E.g. If the LTCG is ₹ 14 crore and the assessee has already incurred ₹ 7 crore in construction of new residential house upto due date of filing return of income, then, he deposit upto ₹ 3 crore [₹ 10 crore (being lower of capital gain and ₹ 10 crore) - ₹ 7 crore i.e., amount already invested in new asset) in CGAS shall be considered for claiming deduction u/s 82.

	For sec. 86: $\frac{\text{Unutilised amount} \times \text{Capital gain}}{\text{Net sale consideration}}$
Nature of gain	It will be taxable as short term or long-term capital gain depending upon the status of the original capital gain.

### Notes

- The unutilized amount can be withdrawn by the taxpayer after the expiry of the afore-said time limit.
- The unutilized amount in Capital Gain Account Scheme (1988), in hands of legal heir of deceased individual, cannot be taxed. [*Circular No.743 dated 6/5/1996*]

### Illustration 6

Mr. Sidhartha has a residential house property taxable u/s 20. Such property is acquired on 12/08/2023 for ₹ 2,00,000. The property is sold on 1/03/2027 for ₹ 25,00,000. He acquired another residential house on 31/03/2027 for ₹ 17,00,000 for self-occupation. On 1/03/2028, he sold such new residential house for ₹ 30,00,000 and acquired another residential house of ₹ 35,00,000 on 10/03/2028. Compute his capital gain for the tax year 2026-27 and 2027-28.

### Solution

Computation of capital gain of Mr. Sidhartha for the tax year 2026-27

Particulars	Details	Amount
Full value of consideration		25,00,000
Less: Expenditure on transfer		Nil
Net sale consideration		25,00,000
Less: Cost of acquisition		2,00,000
Less: Cost of improvement		Nil
Long term capital gain		23,00,000
Less: Deduction u/s 54		17,00,000
<b>Taxable Long term Capital gain</b>		<b>6,00,000</b>

Computation of capital gain of Mr. Sidhartha for the tax year 2027-28

Particulars	Amount	Amount
Full value of consideration		30,00,000
Less: Expenditure on transfer		Nil
Net sale consideration		30,00,000
Less: Cost of acquisition	17,00,000	
Less: Earlier deduction claimed u/s 82	(17,00,000)	Nil
<b>Short term capital gain</b>		<b>30,00,000</b>

Deduction u/s 82 is not available against the new house acquired on 10/03/2028 as it is a short term capital gain.

### Deduction from capital gain on transfer of agro land [Sec. 83]

Applicable to	Individual or HUF	
Conditions	<p>1. Assessee must have transferred a capital asset being an agricultural land (whether long term or short term).  <b><i>Taxpoint:</i></b> <i>A rural agricultural land is not a capital asset hence on transfer of rural land no capital gain arises.</i></p> <p>2. Such agricultural land must have been used by the individual or his parents or by such HUF for agricultural purposes for at least 2 years, prior to its transfer.</p> <p><b><u>Notes</u></b></p> <p>a) An agricultural land, acquired for a period of less than 2 years before the date of transfer and used for agricultural purpose from the date of acquisition, shall not be eligible for deduction.</p> <p>b) Where the assessee obtains land on partition of HUF, the above condition is satisfied if the assessee and HUF taken together have used the land for agricultural purpose for at least 2 years immediately before the transfer.</p> <p>c) Where an assessee was using the property as a tenant and later on purchased the said property, then while calculating the period of 2 years (as stated above), the period during which assessee was using the property as tenant shall also be included.</p> <p>3. Assessee must purchase a new land for agricultural purpose. The new land may be in urban area or rural area.</p>	
Time limit for acquisition of new assets	Within 2 years after the date of transfer.	
	Scheme of deposit	Applicable [Refer ' <i>Capital Gains Account Scheme</i> '].
Deduction	<p>Minimum of the following:</p> <ul style="list-style-type: none"> <li>● Investment in the new asset; or</li> <li>● Capital gain</li> </ul>	
Revocation of benefit and its treatment	<p><b><u>If the newly acquired agricultural land is transferred</u></b> within 3 years from the date of acquisition of new assets, then the benefit availed earlier shall be revoked. Such revoked income shall be reduced from cost of acquisition of new asset.</p> <p><b><u>If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized,</u></b> then such amount shall be taxable as short term</p>	

	or long-term capital gain (depending on the nature of gain on original transfer) in the tax year in which the period of 2 years from the date of transfer expires.
Case	<p>Assessee sold an urban agricultural land and invested the capital gain in rural agricultural land (to claim deduction under this section) and immediately sold such newly acquired rural agricultural land.</p> <p><b>Effect:</b> Since new agricultural land sold before 3 years, therefore exemption shall be revoked and benefit claimed earlier shall be subtracted from cost of acquisition of new asset. However, the new agricultural land is not liable to capital gain as it is not a capital asset (being a rural agricultural land).</p>
Exemption under Sch III (Table S.N 18)	Subject to certain conditions, in case of compulsory acquisition of urban agro-land by the Government, income shall be exempted

### Deduction from capital gain on compulsory acquisition of land and building forming part of industrial undertaking [Sec. 84]

Applicable to	All assessee
Conditions	<ol style="list-style-type: none"> <li>1. Assessee must have transferred a capital asset being a land or building or any right therein, forming part of an industrial undertaking. <b>Taxpoint:</b> Asset may be a short term or long-term capital asset.</li> <li>2. Such capital asset has been compulsorily acquired under any law for the time being in force.</li> <li>3. Such capital asset was used for industrial purpose by the assessee for at least 2 years prior to its transfer.</li> </ol> <p><b>Notes</b></p> <ol style="list-style-type: none"> <li>a) A land or building acquired for a period of less than 2 years and used for industrial purpose from the date of acquisition, shall not be eligible for deduction.</li> <li>b) Where the assessee obtains such capital asset on partition of HUF, the above condition is satisfied if the assessee and HUF taken together have used the asset for industrial</li> </ol>

	<p>purpose for at least 2 years immediately before the transfer</p> <p>c) Where an assessee was using the property as a tenant and later on purchased the said property then while calculating the period of 2 years (as stated above), the period during which assessee was using the property as tenant shall also be included.</p> <p>4. Assessee must purchase any other land or building or construct a building, for the purpose of shifting or reestablishing the said undertaking or setting up another industrial undertaking</p>	
Time-limit for acquiring assets	Within 3 years after the date of <i>receipt of compensation</i> or any part thereof.	
	<table border="1"> <tr> <td>Scheme of deposit</td> <td>Applicable [Refer '<i>Capital Gains Account Scheme</i>'].</td> </tr> </table>	Scheme of deposit
Scheme of deposit	Applicable [Refer ' <i>Capital Gains Account Scheme</i> '].	
Deduction	<p>Minimum of the following:</p> <ul style="list-style-type: none"> <li>Investment in the new asset; or</li> <li>Capital gain</li> </ul>	
Revocation of benefit and its treatment	<p><b><u>If the newly acquired land or building is transferred</u></b> within 3 years from the date of acquisition of new assets, then the benefit availed earlier shall be revoked. Such revoked income shall be reduced from cost of acquisition of new asset.</p> <p><b><u>If the amount held in Capital Gains Deposit Account Scheme (1988)</u></b> is unutilized, then such amount shall be taxable as short term or long-term capital gain (depending on the nature of gain on original transfer) in the tax year in which the period of 3 years from the date of receipt of compensation expires.</p>	

### Deduction from capital gain on acquisition of certain bonds [Sec. 85]

Applicable to	All assessee
Conditions	<ol style="list-style-type: none"> <li>Assessee must have transferred any long-term capital asset being land or building or both.</li> <li>Assessee acquires 'long term specified assets'.</li> </ol> <p>Long-term specified asset means any bond redeemable after 5 years, issued by</p> <ol style="list-style-type: none"> <li>National Highways Authority of India (NHAI);</li> <li>Rural Electrification Corporation Ltd.;</li> </ol>

	<p>c) Housing and Urban Development Corporation (HUDCO);</p> <p>d) Indian Renewable Energy Development Agency (IREDA)</p> <p>e) any other bond being notified by the Central Government</p>
Time limit for acquisition of new assets	<p>Within 6 months after the date of transfer</p> <p>In case of compulsory acquisition, time limit starts from the date of receipt of compensation.</p> <p>In case of conversion of capital asset into stock in trade, the time limit of 6 months for making investments in specified assets should be taken from the date of actual sale of stock in trade and not from the date when capital asset is converted into stock. [Circular No. 791 dated 2/6/2000]</p>
Amount of Deduction	<p>Minimum of the following:</p> <ul style="list-style-type: none"> <li>• Investment in the new asset; or</li> <li>• Capital gain</li> </ul> <p><b>Taxpoint:</b></p> <p>➤ The investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets:</p> <ol style="list-style-type: none"> <li>a. during the tax year; or</li> <li>b. in the year of transfer of the original asset or assets and in the <i>subsequent financial year</i></li> </ol> <p style="text-align: center;">- does not exceed ₹ 50 lakhs</p>
Revocation of benefit	<p>Earlier benefit shall be revoked if such bond is transferred or converted into money within 5 years of its acquisition or a loan is taken on security of the new asset within the said period.</p> <p><b>Taxpoint:</b> <i>In case where an assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted such specified asset into money on the date on which such loan or advance is taken.</i></p>
Treatment of revoked income	Such revoked income shall be treated <i>as long-term capital gain</i> in the year of transfer of new asset.
Scheme of deposit	Not applicable

### Notes

1. **Benefit u/s 85 on depreciable asset:** In the case '*CIT -vs.- Dempo Company Ltd. (2016) 387 ITR 354 (SC)*' it was decided that benefit u/s 85 shall be available on depreciable asset held by the assessee for more than specified months.
2. The investment made for availing benefit u/s 123 shall not be further eligible for deduction u/s 85.

### Deduction from capital gain on transfer of capital assets other than residential house property [Sec. 86]

<b>Applicable to</b>	Individual or HUF	
<b>Conditions</b>	<ol style="list-style-type: none"> <li>1. Assessee must have transferred a long-term capital asset other than a residential house property.</li> <li>2. Assessee must acquire <b>one</b> residential house within prescribed time limit, income of which is taxable u/s 20.</li> <li>3. Such new house should be situated in India.</li> <li>4. Assessee does not own more than one residential house property, income of which is taxable u/s 20 (other than new house), on the date of transfer.</li> <li>5. Assessee does not purchase, within 2 years, or construct, within 3 years of transfer of the original asset, any other residential house, income of which is taxable u/s 20.</li> </ol>	
<b>Time limit for acquisition of new assets</b>	For Purchase	Within a period of '1 year before, or 2 years after, the date of transfer'.
	For Construction	Within a period of 3 years after the transfer Construction may start at any time but must be completed within stipulated time
	Scheme of deposit	Applicable [Refer ' <i>Capital Gains Account Scheme</i> '] <u>Maximum deposit in CGDS</u> : Lower of (a) Net consideration; or (b) ₹ 10 crore; as reduced by the amount invested in acquiring new asset till due date of filing return of income. E.g. If the Net consideration is ₹ 9 crore and LTCG is ₹ 4.5 crore and the assessee has already incurred ₹ 5 crore in construction of new residential house upto due date of filing return of income, then, he can deposit the difference of ₹ 4 crore [₹ 9 crore (being lower of net consideration and ₹ 10 crore) - ₹ 5 crore i.e., amount already invested in new asset) in CGAS for claiming exemption u/s 86.
	<b>Note:</b> In case of compulsory acquisition the time limit starts from the date of initial receipt of compensation.	
<b>Amount of Deduction</b>	Minimum of the following: <ul style="list-style-type: none"> <li>• <math>\frac{\text{Investment in the new asset}}{\text{Net consideration}^\#} \times \text{Capital gain}</math></li> </ul>	

	<p>However, where the cost of new asset exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore shall not be considered.</p> <ul style="list-style-type: none"> <li>• Capital gain</li> </ul> <p># Net consideration = Full value of consideration – Expenditure on transfer</p>
Revocation of benefit and its treatment	<ol style="list-style-type: none"> <li>1. <b><u>If the newly acquired residential house is transferred</u></b> within 3 years after <i>the date of its acquisition</i>, benefit availed earlier shall be revoked.</li> <li>2. <b><u>If another residential house is purchased</u></b> (apart from newly acquired residential house property) by the assessee within 2 years or constructed within 3 years after <i>the date of transfer of original asset</i>, benefit availed earlier shall be revoked. <b><i>Taxpoint:</i></b> <i>The time limit shall be determined from the date of transfer of original asset even in the case when asset is compulsory acquired by the Government.</i></li> <li>3. <b><u>If the amount, held in Capital Gains Deposit Account Scheme (1988), is unutilized</u></b>, benefit availed earlier shall be revoked.</li> </ol>
Treatment of revoked income	<ul style="list-style-type: none"> <li>• <b><u>Revocation due to case 1 &amp; 2 above</u></b> Such revoked income (exemption) shall be taxable <i>as long-term capital gain</i> in the year of revocation of condition.</li> <li>• <b><u>Revocation due to case 3 above</u></b> Chargeable amount shall be – <math display="block">\frac{\text{Unutilised amount for which benefit u/s 86 is availed} \times \text{Original capital gain}}{\text{Net consideration}}</math> - taxable as long term capital gain of the tax year in which 3 years from the date of transfer of asset expires.</li> </ul>

**Notes:** Refer notes of sec. 82. Further, benefit u/s 86 is available if assessee has transferred a plot of land

### **Illustration 7**

Sonu has jewellery acquired on 17/07/2011 for ₹ 5,00,000. On 18/08/2014 Sonu incurred improvement expenditure on such jewellery by adding diamond to it worth ₹ 3,00,000. On 18/08/2026, he transferred such jewellery to his friend Monu for ₹ 40,00,000.

Sonu already has a self-occupied house property in Lucknow, however on 17/03/2027 he purchased another residential house property for ₹ 30,00,000 for the purpose of letting out.

As on 5/08/2027, his friend offered him a house worth ₹ 25,00,000 (Value for Stamp duty purpose is only ₹ 14,00,000/-) for ₹ 15,00,000 only & Sonu purchased the same.

On 7/04/2028, Sonu sold the new house acquired from his friend for ₹ 19,00,000. Value determined for the purpose of stamp duty purposes ₹ 22,00,000 and market value as on the date of transfer is ₹ 26,00,000. Compute capital gain in hands of Sonu for several years.

**Solution**

Computation of capital gain of Sonu for the tax year 2026-27

Particulars	Details	Amount
Full value of consideration for Jewellery		40,00,000
Less: Expenditure on transfer		Nil
Net consideration		40,00,000
Less: Cost of acquisition	5,00,000	
Less: Cost of improvement	3,00,000	8,00,000
Long term capital gain		32,00,000
Less: Exemption u/s 86 [ $\frac{₹ 30,00,000}{₹ 40,00,000} \times ₹ 32,00,000$ ]		24,00,000
<b>Taxable Long term capital gain</b>		<b>8,00,000</b>

**Computation of capital gain of Sonu for the tax year 2027-28:** Since the assessee acquired another house property therefore the earlier exemption availed u/s 86 shall be revoked and shall be liable to long term capital gain. Hence taxable long-term capital gain for the tax year 2027-28 is ₹ 24,00,000.

Computation of capital gain of Sonu for the tax year 2028-29

Particulars	Details	Amount
Full value of consideration	Value determined for Stamp duty [Sec. 78]	22,00,000
Less: Expenditure on transfer		Nil
Net consideration		22,00,000
Less: Cost of acquisition	15,00,000	
Less: Cost of improvement	Nil	15,00,000
<b>Short-term capital gain</b>		<b>7,00,000</b>

**Illustration 8**

Mr. X has sold the following assets during the year 2026-27

Items	Cost of acquisition	Sale consideration	Year of acquisition
Land	₹ 10 lacs	₹ 150 lacs	2022-23
Jewellery	₹ 30 lacs	₹ 120 lacs	2008-09

On 31/03/2027, he has purchased a residential house of ₹ 70,00,000 for self occupation as he had no other house till date. Compute capital gain.

**Solution**

Computation of capital gains in the hands of Mr. X for the tax year 2026-27

Particulars	Land	Jewellery
Full value of consideration	1,50,00,000	1,20,00,000
Less: Expenses on transfer	Nil	Nil
Net Consideration	1,50,00,000	1,20,00,000
Less: Cost of Acquisition	10,00,000	30,00,000
Less: Cost of improvement	Nil	Nil
Long Term Capital Gain	1,40,00,000	90,00,000
Less: Exemption u/s 86 [Working 1]	65,33,333	Nil
<b>Long Term Capital Gain</b>	<b>74,66,667</b>	<b>90,00,000</b>

### Working 1

In the given case assessee can claim benefit u/s 86, for any of the LTCG (land or jewellery).

A Comparative study is made under to decide from which LTCG such deduction should be claimed:

Particulars	Working	Land	Jewellery
Long Term Capital Gain	A	1,40,00,000	90,00,000
Net sale consideration	B	1,50,00,000	1,20,00,000
Benefit u/s 86	$A/B \times ₹ 70,00,000$	65,33,333	52,50,000
Since the deduction is higher in the case of Land hence the deduction u/s 86 is ₹ 65,33,333			

## Deduction from capital gain on transfer of capital assets in case of shifting of industrial undertaking from urban areas [Sec. 87]

Applicable to	All assessee
Conditions	<ol style="list-style-type: none"> <li>1. Assessee must have transferred a capital asset, being –                             <ul style="list-style-type: none"> <li>➤ A machinery or plant or building or land; or</li> <li>➤ Any rights in building or land,</li> <li>➤ used for the purposes of the business of an industrial undertaking situated in an urban area.</li> </ul> </li> <li>2. Such transfer is effected in the course of shifting of such industrial undertaking to any area other than an urban area.</li> <li>3. Assessee has within a period of 1 year before, or 3 years after, the date of transfer —                             <ol style="list-style-type: none"> <li>a) purchased new machinery or plant for the purpose of business of the industrial undertaking in the area to which the said undertaking is shifted;</li> <li>b) acquired building or land or constructed building for the purposes of his business in the said area;</li> </ol> </li> </ol>

	<p>c) shifted the original asset and transferred the establishment of such undertaking to such area; and</p> <p>d) incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section.</p>	
Time limit for acquiring new asset.	Within 1 year before, or 3 years after, the date of transfer.	
	<table border="1"> <tr> <td>Scheme of deposit</td> <td>Applicable [Refer 'Capital Gains Account Scheme'].</td> </tr> </table>	Scheme of deposit
Scheme of deposit	Applicable [Refer 'Capital Gains Account Scheme'].	
Amount of Deduction	<p>Minimum of the following:</p> <ul style="list-style-type: none"> <li>• Amount expended for the above purposes [as stated in (a) to (d) above];</li> <li>• Capital gain</li> </ul>	
Revocation of benefit and its Treatment	<p>If the newly acquired assets are transferred within 3 years from its date of acquisition, then the benefit availed earlier shall be revoked. Such revoked income shall be subtracted from cost of acquisition of newly acquired assets.</p> <p>If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized, then such amount shall be taxable as short term or long-term capital gain (depending on the nature of gain on original transfer) in the tax year in which the period of 3 years from the date of transfer expires.</p>	
<p><b>Note:</b> Urban area means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this section.</p>		

### Deduction from capital gain on transfer of capital assets in case of shifting of industrial undertaking from urban areas to SEZ [Sec. 88]

Applicable to	All assessee
Conditions	<ol style="list-style-type: none"> <li>1. Assessee must have transferred a capital asset, being – <ul style="list-style-type: none"> <li>➤ A machinery or plant or building or land; or</li> <li>➤ Any rights in building or land,</li> </ul>                     - used for the purposes of the business of an industrial undertaking situated in an urban area.                 </li> <li>2. Such transfer is effected in the course of shifting of such industrial undertaking to Special Economic Zone (SEZ).</li> </ol> <p><b>Note:</b> The SEZ may be developed in any urban area or any other area.</p>

	<b>3.</b> Assessee has within a period of 1 year before, or 3 years after, the date of transfer - <ol style="list-style-type: none"> <li><b>i.</b> purchased new machinery or plant for the purpose of business of the industrial undertaking in the SEZ to which the said undertaking is shifted;</li> <li><b>ii.</b> acquired building or land or constructed building for the purposes of his business in the SEZ;</li> <li><b>iii.</b> incurred expenditure on shifting the original asset and transferred the establishment of such undertaking to such SEZ; and</li> <li><b>iv.</b> incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section.</li> </ol>	
Time limit for acquiring new asset.	Within 1 year before, or 3 years after, the date of transfer.	
	Scheme of deposit	Applicable [Refer ' <i>Capital Gains Account Scheme</i> '].
Amount of Deduction	Minimum of the following: <ul style="list-style-type: none"> <li>• Amount expended for the above purposes [as stated in (a) to (d) above];</li> <li>• Capital gain</li> </ul>	
Revocation of benefit and its Treatment	If the newly acquired assets are transferred within 3 years from its date of acquisition, then the benefit availed earlier shall be revoked. Such revoked income shall be subtracted from cost of acquisition of newly acquired assets.  If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized, then such amount shall be taxable as short term or long-term capital gain (depending on the nature of gain on original transfer) in the tax year in which the period of 3 years from the date of transfer expires.	
<p><b>Note:</b> Urban area means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this section.</p>		

### Exemption under more than one provision

An assessee can claim exemption under more than one section (from sec. 82 to 88) if conditions of the respective sections are fulfilled. E.g. An assessee deriving long term capital gain on sale of a residential house can claim benefit u/s 82 by investing a part of the capital gain in acquisition of a new residential house property and as well as claim benefit u/s 85 by investing remaining part of the capital gain in acquisition of specified securities.

### Extension of time for acquiring new asset or depositing or investing amount of capital gain [Sec. 89]

Applicability	<ul style="list-style-type: none"> <li>Where the transfer of the original asset is by way of compulsory acquisition under any law; and</li> <li>Amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer.</li> </ul>
Treatment	The period for acquiring the new asset or the period available to the assessee for depositing the amount of capital gain in relation to such compensation as is not received on the date of the transfer, shall be reckoned from the date of receipt of such compensation.

#### Notes

- It is irrespective of anything contained in sec. 82, 83, 84, 85 and 86.
- Enhanced Compensation:** In case of enhanced compensation, the period for acquiring the new asset shall commence from the date of receipt of such enhanced compensation.

### Reference to Valuation Officer [Sec. 91]

With a view to ascertaining the fair market value of a capital asset for the purposes of this chapter the Assessing Officer may refer the valuation of capital asset to a Valuation Officer.

Cases where reference to Valuation Officer can be made

Case	Condition
Where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer.	If the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value
In any other case	If the Assessing Officer is of the opinion— <ol style="list-style-type: none"> <li>That the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than                             <ul style="list-style-type: none"> <li>15% of the value of the asset as so claimed; or</li> <li>by more than ₹ 10 lakh [Rule 55] whichever is less.</li> </ul> </li> <li>That having regard to the nature of the asset and other relevant circumstances, it is necessary to do so.</li> </ol>

The provisions of sec. 269(3) to (8) shall, with necessary modifications, apply in relation to such reference made.

## Computation of capital gain in certain cases

### Capital gain in case of insurance claim [Sec. 67(2)]

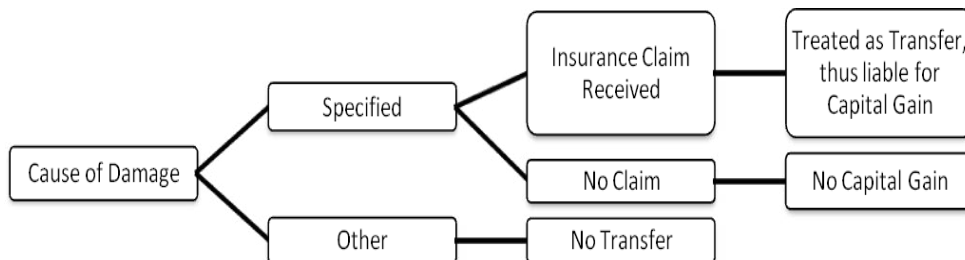
In *CIT -vs.- Vania Silk Mills (P) Ltd.*, the Apex Court has held that any compensation received as insurance claim for loss of capital assets shall not be taxable. However, sec. 67(2) nullifies the impact of the above case law (to some extent).

As per provision of this section, any compensation received from an insurance company for the specified damages<sup>#</sup> is treated as transfer. Such transfers are liable to capital gain *in the year of receipt of compensation*.

#### # Specified damages

Damages caused due to –

- Flood, typhoon, hurricane, cyclone, earthquake or other natural calamities; or
- Riot or civil disturbance; or
- Accidental fire or explosion; or
- Action by an enemy and an action taken in combating an enemy (whether with or without a declaration of war)



For computation of capital gain, various terms to be interpreted as under:

Full value of consideration	If compensation received is in cash	Compensation so received
	If compensation received is in kind	Fair Market value (as on date of receipt) of assets received as compensation.
Cost of acquisition / Cost of improvement / Expense on transfer	As usual	
Indexation benefit available (if any)	Till the year of destruction [considered only while computing tax where resident individual or resident HUF opt to pay tax as per option 2]	
Taxable	In the year of receipt of compensation	

Tax rate	As applicable in the year of receipt of compensation
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**Taxpoint:** Compensation received for damage of machinery shall be treated u/s 38(1) to the extent expenditure incurred on repair and renovation of damaged machinery and such repair and renovation expenditure shall be allowed u/s 28. However, compensation in excess of repair & renovation expenditure shall be treated as capital receipt and shall not be liable to tax. Sec. 67(2) shall not be applicable as there is no transfer of capital asset.

**Compensation received for any other damages to capital asset:** Compensation received for any other damages of capital asset (e.g. loss of capital assets due to theft, road accident or sunk of ship due to technical error, etc.) shall be treated as a capital receipt and shall not be taxable.

**Compensation received for any damages to non-capital asset:** A revenue receipt may be chargeable u/s 26 or 92. E.g. compensation received on theft of stock in trade shall be taxable as business income.

**Destruction of asset without insurance:** Where an asset is destroyed and there is no insurance or insurance compensation is not received, neither sec. 67(2) nor sec. 67 shall be attracted and destruction of asset shall not be treated as transfer.

**Example:** Mr. X acquired a residential building for self occupation on 5/5/2024 for ₹ 90 lacs. On 7/4/2026, the property caught fire. No insurance was made. Such loss of ₹ 90 lacs is not an allowable loss.

## Capital gain on ULIP [Sec. 67(5)]

### Situation

Any person receives at any time during any tax year any amount under a unit linked insurance policy (including the amount allocated by way of bonus on such policy), to which exemption under Schedule II (Table S No. 2)<sup>6</sup> does not apply,

### Treatment

Any profits or gains arising from receipt of such amount by such person shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the tax year in which such amount was received and the income taxable shall be calculated in such manner as may be prescribed (Rule 49).

*Receipt – Aggregate Premium Paid till the date of receipt (if not reduced earlier)*

Tax shall be calculated as per sec. 198. However, if it is short term capital gain, then tax shall be calculated as per sec. 196.

**Taxpoint:** Proceeds from other life insurance policy (subject to keyman insurance policy), if not exempted, shall be taxable u/s 92 (i.e., under the head Income from Other Sources)

<sup>6</sup> Proceeds from ULIPs issued on or after 1 February 2021 are exempt provided the aggregate premium of all such policies does not exceed ₹ 2,50,000 in any tax year during the policy term. However, in case of death, receipt is exempted irrespective of amount of annual premium

### Capital gain on conversion of capital assets into stock in trade [Sec. 67(6)]

For computation of capital gain, various terms to be interpreted are as under:

Full value of consideration	Fair Market value as on date of such conversion.
Cost of acquisition/Cost of improvement/ Expenditure on transfer	As usual
Indexation benefit available (if any)	Till the year of conversion [considered only while computing tax where resident individual or resident HUF opt to pay tax as per option 2]
Taxable	In the year in which such stock is actually sold
Tax rate	As applicable in the year of actual sale of such stock
Treatment of difference of actual sale value and Fair market value as on date of conversion	[Actual sale value – FMV as on date of conversion – Expenditure on transfer] shall be treated as business Income.

### Transfer of security by depository [Sec. 67(7)]

An assessee may have security in form of a physical script or in dematerialized form. The securities held in dematerialized form shall be dealt as per sec. 67(7) and for computation of capital gain, various terms to be interpreted are as under:

Cost of acquisition	Cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method (FIFO) <sup>#</sup> .
Period of holding	
Full value of consideration	As usual
Expenditure on transfer	

<sup>#</sup> In this connection, CBDT vide Circular No. 768, dated 24/6/1998 has clarified that:

- In case of assessee who has securities partly in physical form and partly in dematerialized form, FIFO method will be applied only in respect of the dematerialized holding. This is because in case of sale of dematerialized securities, the securities held in physical form are not considered as they continue to remain in the possession of the investor and are identifiable separately.
- An assessee may have more than one account in case of depository system and in such case FIFO technique shall be applied for each account separately.
- For deciding FIFO technique the date of entry in 'Demat Account' is significant and the date of purchase of security is irrelevant.

## Capital gain on transfer of capital assets by a partner/member to Firm/AOP/BOI as capital contribution [Sec. 67(9)]

Where a partner or member (whether existing or new) transfers any of its capital assets to firm, AOP or BOI of which he is a member by way of capital contribution or otherwise, the same shall be treated as transfer. Tax treatment of such transfer shall be as under:

Full value of consideration	The amount recorded in books of account of the firm/AOP/BOI, as value of such assets.
Cost of acquisition / Cost of improvement / Expenditure on transfer	As usual
Taxable	In the year of such transfer
Indexation benefit available (if any)	As usual [available while computing tax where resident individual or resident HUF opt to pay tax as per option 2]

**Taxpoint:** Fair market value of such assets is irrelevant in deciding full consideration.

### **Illustration 9**

ABC & Co. has three partners A, B and C sharing profit or loss in the ratio 5:3:2. They admitted D as a new partner on 31/07/2026 for 1/5<sup>th</sup> share and D is to bring ₹ 2,00,000 as his capital which he brought in form of furniture (earlier used in his home) ₹ 50,000 immediately & further brought jewellery of which fair market value is ₹ 2,00,000 on 02/08/2026 (however such assets was recorded in the books at ₹ 1,80,000). D had acquired such jewellery for ₹ 45,000 on 7/07/2022. Compute capital gain in the hands of Mr. D.

### **Solution**

In the given case, Mr. D brought two assets:

- a) Furniture, being a personal effect, is not a capital asset and hence, not liable to capital gain.
- b) Jewellery being a capital asset, hence liable to capital gain as under –  
Computation of capital gain in the hands of Mr. D for the tax year 2026-27

Particulars	Details	Amount
Full value of consideration		1,80,000
Less: Expenses on transfer		Nil
Net consideration		1,80,000
Less: i) Cost of acquisition	45,000	
ii) Cost of improvement	Nil	45,000
<b>Long Term Capital Gain</b>		<b>1,35,000</b>
Sale consideration should be the amount recorded in books of accounts of the firm and market value of such assets is irrelevant.		

## **Capital gain on transfer of capital assets by a firm/AOP/BOI to partner/member by way of distribution on its dissolution [Sec. 67(10) r.w.s 8]**

### **Situation**

During tax year, where a specified person receives any money or capital asset or stock in trade from a specified entity in connection with the dissolution or reconstitution of such specified entity,

- "Specified entity" means a firm or other association of persons or body of individuals (not being a company or a co-operative society);
- "Specified person" means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any tax year.
- "Reconstitution of the specified entity" means, where—
  - a. one or more of its partners or members, as the case may be, of such specified entity ceases to be partners or members; or
  - b. one or more new partners or members, as the case may be, are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, as the case may be, of the specified entity, before the change, continue as partner or partners or member or members after the change; or
  - c. all the partners or members, as the case may be, of such specified entity continue with a change in their respective share or in the shares of some of them;

### **Treatment**

#### **In the hands of specified entity u/s 8**

Any profits and gains arising from such deemed transfer of capital asset or stock in trade or both, as the case may be, by the specified entity shall be:

- deemed to be the income of such specified entity of the tax year in which such capital asset or stock in trade or both were received by the specified person; and
- chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains"
- for aforesaid purposes, fair market value of the capital asset or stock in trade or both on the date of its receipt by the specified person shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer of the capital asset or stock in trade or both by the specified entity.

#### **In the hands of specified entity u/s 67(10) read with Rule 50**

During tax year, where a specified person receives any money or capital asset or both from a specified entity in connection with the reconstitution of such specified entity, any gains

arising from such receipt by the specified person shall be chargeable as income of such specified entity under the head "Capital gains".

- It shall be deemed to be the income of such specified entity of the tax year in which such money or capital asset or both were received by the specified person.
- Transfer of stock in trade shall be treated as business profit

Method of computation of profits or gains

Such profits or gains shall be determined in accordance with the following formula:

$$A = B + C - D$$

where,

- A = Income chargeable as capital gains of the specified entity
  - If the value of "A" is negative, its value shall be deemed to be zero.
- B = Value of any money received by the specified person from the specified entity on the date of such receipt;
- C = Fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt
- D = Balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution.
  - The balance is to be calculated without taking into account the increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.
  - "Self-generated goodwill" and "Self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

Taxpoint

- When a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, this provision shall operate in addition to the provisions of sec. 8 and the taxation under the said provisions thereof shall be worked out independently.

**Capital gain on transfer by way of compulsory acquisition [Sec. 67(12)]**

Sec. 67(12) is applicable on the following cases –

- When the transfer of a capital asset (other than urban agro-land) is by way of compulsory acquisition under any law; or

- When a capital asset is transferred and the consideration of transfer is to be determined or approved by the Central Government (not by a State Government) or the Reserve Bank of India.

***Tax treatment of initial compensation received [Sec. 67(12)(a)]***

Full value of consideration	Total compensation or consideration received or receivable
Cost of acquisition / Cost of improvement	As usual
Expenditure on transfer	Legal expenditure incurred to recover claim shall be allowed as deduction.
Taxable	In the year when such compensation / consideration (or part thereof) is <i>first</i> received.
Indexation benefit available	Till the year of compulsory acquisition [available while computing tax where resident individual or resident HUF opt to pay tax as per option 2]

***Tax treatment of enhanced compensation [Sec. 67(12)(b)]***

Where the assessee has received enhanced compensation, then such enhanced compensation shall be taxable under this section as under:

Full value of consideration	Total enhanced compensation or consideration received [See Note]. <b><i>Taxpoint:</i></b> <i>Such compensation shall be taxable in the year of receipt only. If a part installment received then only part amount shall be taxable and not the entire amount.</i>
Expenditure on transfer	As usual Litigation expenses for getting the enhanced compensation are deductible as expenses on transfer sec. 67(12)(b).
Cost of acquisition/Cost of improvement	Nil
Taxable	In the year when such enhanced compensation or consideration is received.
Nature of gain on enhanced compensation (whether STCG or LTCG)	As in case of initial compensation or consideration.
Interest on enhanced compensation (if any)	Taxable as 'Income from other sources'

**Note:**

- Any amount of compensation received in pursuance of an *interim* order of a court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the tax year in which the *final* order of such court, Tribunal or other authority is made.
- Where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the gain so computed in case of enhanced compensation or consideration shall be deemed to be the capital gain, of such other person.

**Tax treatment of reduced compensation [Sec. 67(12)(d)]**

Where in any tax year, such compensation or consideration (whether original or enhanced) referred above is reduced by any court, tribunal or other authority, then capital gain of that year shall be recomputed considering the compensation or consideration so reduced by such court, Tribunal or other authority.

**Capital gain on Joint Development Agreement [Sec. 67(14)]**

**Situation**

- The assessee is an individual or a HUF
- Such assessee transfer capital asset being land or building or both under a specified agreement to another person
  - *Specified agreement* means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash

**Treatment**

Full value of consideration	Stamp duty value on the date of issue of completion certificate of his share being land or building or both in the project + Monetary consideration, if any.
Cost of acquisition	Proportionate cost of the asset transferred
Benefit of indexation	Available upto the year in which the completion certificate is issued [available while computing tax where resident individual or resident HUF opt to pay tax as per option 2]
Taxable	In the year in which completion certificate for the whole or part of the project is issued by the competent authority

**Taxpoint**

- The cost of acquisition of capital asset, being share in the project, in the form of land or building or both, (covered under aforesaid provisions), shall be the amount which is deemed as full value of consideration while computing capital gain u/s 67(14).
- *Competent authority* means the authority empowered to approve the building plan by or under any law for the time being in force.
- Where the assessee transfers his share in the project on or before the date of completion certificate, in that case, aforesaid provision is not applicable and the capital gains shall be taxable in the tax year in which such transfer takes place. Further, capital gain shall be computed as per other provisions.

### **Capital gain on distribution of assets by companies in its liquidation [Sec. 68]**

On liquidation of a company, after payment of all its outside liabilities, remaining assets are disposed off in any of the following two manners:

1. Remaining assets are sold in the market, and sale proceeds are distributed among shareholders.
2. Remaining assets themselves are distributed among shareholders.

Above transaction shall be treated as under for computation of capital gain.

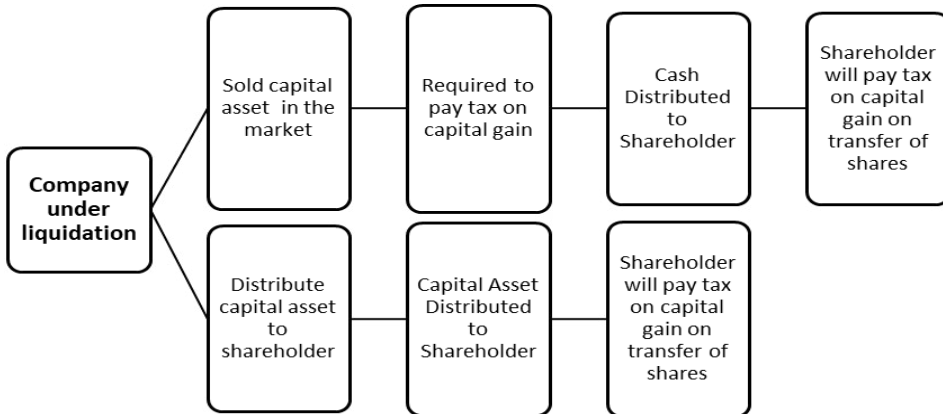
#### **Tax Treatment in the hands of Company [Sec. 68(1)]**

At the time of liquidation of company, any transfer by way of distribution of *assets* among its shareholders is not treated as transfer for the purpose of capital gain. Hence, in case 2 when assets are directly distributed among shareholders, nothing shall be charged to tax under the head 'Capital gains'

On the other hand, in case 1, when assets are sold in the market (thereafter sale proceeds are distributed among shareholders), then such sale of assets by the company in the market shall be treated as transfer and chargeable under the head 'Capital gains' as under:

Full value of consideration	As usual
Cost of acquisition / improvement / Expense on transfer	As usual
Taxable	In the year when such assets are sold.

***Taxpoint:*** When the company does not distribute the assets directly to shareholders but sells it in market (referred as 1<sup>st</sup> transfer) & distributes the proceeds among shareholders then, though such 1<sup>st</sup> transfer shall be liable to capital gain, but distribution of proceeds among shareholders shall not be liable to capital gain.



**Tax treatment in the hands of the shareholders [Sec. 68(2)]**

When a shareholder receives money or other assets at the time of liquidation of the company then such receipts [excluding the amount of dividend u/s 2(40)(c)] shall be liable to capital gain as under –

Full value of consideration	Total amount (or market value of assets) received on Liquidation by the shareholder	****
	Less: Amount of deemed dividend u/s 2(40)(c)	(****)
	Sale consideration	****
	<b><u>Deemed dividend [Sec. 2(40)(c)]:</u></b> Any distribution of assets by a company, at the time of liquidation, is treated as deemed dividend to the extent of accumulated profit at the time of liquidation of company.	
Cost of acquisition/Cost of improvement	As usual	

**Taxpoint**

- a) When distribution is made by liquidator, and the amount of distribution is less than the total amount of Shareholders’ Fund, the distribution is deemed to take place in proportion of *share capital* and *accumulated profit* as appears immediately before the distribution in the books of account of the company.
- b) **Payment in installments by the liquidator to shareholders:** In case payment is received by the shareholder in installments then the cost of acquisition shall be deducted from the earlier installment(s). Once the cost of acquisition is absorbed by the earlier installment then subsequent installment (less expenditure on transfer) shall be fully taxable.

- c) The distributed asset may not be a capital asset, still provision of sec. 68(2) shall be attracted. E.g. if on liquidation, company distributed its rural agricultural land (not being a capital asset) to its shareholder. Such shareholder shall be liable to capital gain, as the transferred asset (on the part of shareholder) is shares in the company

### **Illustration 10**

#### **Balance sheet of Purva India (P) Ltd. as on 31/12/2026**

<b>Liabilities</b>	<b>Amount</b>	<b>Assets</b>	<b>Amount</b>
Equity Share capital of ₹ 10 each	8,00,000	Land	6,00,000
Preference Share capital	1,00,000	Building (WDV as per IT Act)	3,00,000
Reserves	2,00,000	Machinery (WDV under IT Act)	4,00,000
Loan	6,00,000	Current Asset	10,00,000
Creditors	6,00,000		
	<b>23,00,000</b>		<b>23,00,000</b>

### **Additional information**

Company went into liquidation on the balance sheet date and all current assets and building realized at book value. The realized money was applied in payment of outside liabilities and preference shareholder. Utkarsh is a holder of 10% equity share and 20% preference share of the company. Equity shares were originally acquired by him on 16/08/2019 at face value. However, he subscribed to preference share on 1-04-2026, which was issued at par. He received a part of land (MV ₹ 5,00,000) and cash (for preference share) ₹ 20,000. Compute capital gain in hands of company & Utkarsh.

### **Solution**

#### **Computation of capital gain for the tax year 2026-27 in the hands of Purva India (P) Ltd**

As per sec. 68(1), at the time of liquidation of company, any transfer by way of distribution of assets to its shareholders is not treated as transfer for the purpose of capital gain. However, if any asset is sold in the market the same shall be liable to capital gain.

In the given case, only one capital asset is sold i.e. building and the same being sold at book value, hence no capital gain liability arises in the hands of company.

Computation of capital gain for the tax year 2026-27 in the hands of Utkarsh

<b>Particulars</b>	<b>Working</b>	<b>Details</b>	<b>Amount</b>
<u>For equity share</u>			
Full value of consideration			4,80,000 <sup>1</sup>
Less: Expenses on transfer			Nil
Net Consideration			4,80,000
Less: i) Cost of acquisition	10% of ₹ 8,00,000	80,000	
ii) Cost of improvement		Nil	80,000

Long Term Capital Gain			4,00,000
<u>For preference share</u>			
Full value of consideration			20,000
Less: Expenses on transfer			Nil
Net Consideration			20,000
Less: i) Cost of acquisition	20% of ₹ 1,00,000	20,000	
ii) Cost of improvement		Nil	20,000
Short Term Capital Gain			Nil

<sup>1</sup> Market value of land received	₹ 5,00,000
Less: Dividend u/s 2(40)(c) being 10% of accumulated profit (10% of ₹ 2,00,000)	₹ 20,000
Full value of consideration	₹ 4,80,000

Dividend is taxable under the “Income from Other Sources”

### Capital Gain on buy back of own securities (Sec. 69)

Buy back of share shall be treated as a transfer for its holder and shall be treated as under:

Full value of consideration	Amount received by a security-holder from the company.
Cost of acquisition / Cost of improvement	As usual
Taxable	In the year when such securities are purchased by the company.

#### Taxpoint:

Under Section 69(2), if the shareholder tendering the shares is a Promoter, their total tax liability on the resulting capital gain is the aggregate of two distinct components:

- **Layer 1 (The Regular Tax):** The income-tax payable on the capital gains computed under the normal provisions of the Act (e.g., 12.5% on Long-Term Capital Gains).
- **Layer 2 (The Additional Tax):** An extra layer of tax levied strictly on the capital gain amount, applying the rates from the specialized Promoter Matrix

Income	Rate, where the promoter is a domestic company	Rate, where the promoter is other than a domestic company
Short-term capital gains referred to in section 196 arising from the transfer of such securities	2%	10%
Long-term capital gains referred to in sec. 197 or sec. 198 arising from the transfer of such securities.	9.5%	17.5%

The ultimate tax outflow for a Promoter is effectively the sum of both layers, plus surcharge (@ 12%) and health & education cess (@ 4%).

### Who is Legally Termed a "Promoter"?

**A. In the case of a Listed Company:** If assessee is classified as a promoter under SEBI regulations (e.g., named in the offer document, or in control of the issuer), he is a promoter for income tax purposes.

**B. In the case of an Unlisted or Private Company:** "Promoter" means:

1. A person defined as a "promoter" u/s 2(69) of the Companies Act, 2013 (i.e., named in the prospectus/annual return, has control over the company's affairs, or in accordance with whose advice the Board acts); **OR**
2. Any person who holds, directly or indirectly, more than 10% of the shareholding in the company.

**Example:** TechStart Pvt. Ltd. (an unlisted company) executes a buy-back of shares. Both shareholders tender their shares, and both realize a Long-Term Capital Gain (LTCG) of ₹ 1,00,00,000 on the transaction.

- Mr. A (Angel Investor): Holds a 4% stake. He has no board seat. He is a Non-Promoter.
- Mr. B (Founder): Holds a 45% stake. He is classified as a Promoter.

### Computation of Tax Liability for Tax Year 2026-27):

Particulars	Mr. A (Non-Promoter)	Mr. B (Promoter - Individual)
Long-Term Capital Gain (LTCG)	₹ 1,00,00,000	₹ 1,00,00,000
Layer 1: Regular Capital Gains Tax (Standard unlisted LTCG rate @ 12.5%)	₹ 12,50,000	₹ 12,50,000
Layer 2: Additional Promoter Tax (As per Sec 69(2) Matrix: 17.5% for Non-Company)	Not Applicable	₹ 17,50,000
<b>Tax on Capital Gain before surcharge</b>	<b>₹ 12,50,000</b>	<b>₹ 30,00,000</b>

### Transfer in case of total or partial partition of HUF [Sec 70(1)(a) & 73(1)]

As per sec. 70(1)(a), any distribution of capital assets *in kind* by HUF on its total or partial partition is not treated as transfer. However, when such assets are further transferred by its member then tax treatment shall be as under:

Full value of consideration	As usual
Cost of acquisition	Cost of assets in the hands of HUF
Index benefit on cost of acquisition shall be applicable from	When HUF holds such assets [available while computing tax where resident individual or resident HUF opt to pay tax as per option 2]

Index benefit on cost of improvement shall be applicable from	When the actual improvement expenditure was incurred. [available while computing tax where resident individual or resident HUF opt to pay tax as per option 2]
Determination of the nature of asset	For determination of LTCA or STCA, period of holding of the HUF shall be considered.

### Capital gain on conversion of debentures into shares [Sec. 70(l)(z)/(za)]

Conversion of debentures (including debenture stock and deposit certificate) into shares or debentures are not treated as a transfer.

Tax impact on transfer of such converted shares shall be as under:

Cost of acquisition of new asset	Cost of old asset (convertible debentures) shall be taken as cost of acquisition of new asset (converted share).
Holding Period	Starts from the date of acquisition of such debenture [Rule 8AA]

### Zero Coupon Bond

As per Sec. 2(112) “Zero Coupon Bond” means a bond—

- issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank on or after 01-06-2005;
- for which no payment and benefit is received or receivable before maturity or redemption from the issuer; and
- which the Central Government may, by notification, specify.

**Determination of nature of asset:** A Zero Coupon Bond shall be treated as Long term capital asset if it is held by the transferor for more than 12 months.

**Treatment:** Redemption or maturity or sale of such bond shall be treated as transfer.

**Taxpoint:**

Tax impact on sale or redemption or maturity of Zero coupon Bond shall be as under:

Full value of consideration	Redemption price, Maturity value or sale proceeds as the case may be.
Cost of acquisition of new asset	As usual
Determination of nature of asset	Long term capital asset if held for more than 12 months.

**Notes:**

1. **Tax rate:** Long term capital gain on such bond shall be taxed at 12.5%.
2. **Tax treatment in hands of issuing company:** Discount (i.e. the difference between the amount receivable by the issuing company and the amount payable by such company on maturity or redemption of such bond) shall be allowed as deduction u/s 32(d) on pro rata basis during the life of the bond.

### Employee Stock Option Plan (ESOP) [Sec. 73(1) Table S. No. 4]

When shares or securities are issued (directly or indirectly) by employer-company to its employees, then tax treatment shall be as under:

<b>If such shares are issued in any tax year (upto tax year 2008-09 but other than tax year 1999-00)</b>		
Tax treatment under the head 'Salaries'	Nothing shall be taxable as perquisite.	
Tax treatment under the head 'Capital Gains' when such assets are sold by employee	Sale consideration	As usual
	Cost of acquisition	<p><b><u>If shares are allotted before 1/4/2007</u></b> Actual cost of acquisition i.e. price at which such shares are issued to employee.</p> <p><b><u>If shares are allotted on or after 1/4/2007 but before 1/4/2009</u></b> Value of such shares on the date on which the option vests with the employee (i.e., Value which has been taken while computing value of Fringe Benefit).</p>
<b>If such shares were issued in tax year 1999-00 or on or after 01-04-2009</b>		
Tax treatment under the head 'Salaries'	Difference between the fair market value of shares as on the date of exercise of option and cost at which it is offered to employees is treated as taxable perquisite.	
Tax treatment under the head 'Capital Gains' when such assets are sold by employee	Sale consideration	As usual
	Cost of acquisition	Fair market value on the date of exercise of option (as considered for calculating above perquisite)
Tax treatment under the head 'Capital Gains' when ESOP shares (issued at any time) are transferred by the employee by way of gift	In the hands of employee	Gift is not treated as transfer, hence no capital gains
	In the hands of transferee	Such transfer is subject to the provision of sec. 92(2)(m)

### **Withdrawal of exemption in case of transfer by a holding company to its 100% subsidiary company and vice versa u/s 70(1)(c)/(d)**

By virtue of sec. 70(1)(c)/(d), any transfer of capital asset by a company to its 100% Indian subsidiary company or by a 100% subsidiary company to its Indian holding company shall not be treated as transfer for the purpose of capital gain. Hence, such transaction is not liable to capital gain.

#### **Circumstances when exemption shall be withdrawn**

Where at any time before the expiry of a period of 8 years from the date of the transfer of the capital asset –

- a) Such capital asset is converted by the transferee-company into stock in trade; or
- b) 100% relationship between holding and subsidiary company ceases to exist.
  - such exemption shall be withdrawn.

#### **Consequences of withdrawal of exemption**

The amount of profits and gains arising from the transfer of such capital asset [which was not charged earlier] shall be deemed to be income chargeable under the head “Capital gains” of the tax year in which such transfer took place in the hands of transferor company.

#### **Taxpoint**

Withdrawal of exemption –

Case	Tax treatment in hands of	
	Transferor-company	Transferee-company
Conversion of such asset into stock in trade at any time before the end of 8 years from the date of transfer of capital asset	Earlier exemption shall be revoked and liable to tax.	Taxable [Refer ‘Conversion of capital asset into stock-in-trade’ as discussed earlier]
Cessation of 100% relationship at any time before the end of 8 years from the date of transfer of capital asset		No treatment

**Cost of acquisition in hands of transferee company:** In case where the exemption u/s 70(1)(c)/(d) has not been withdrawn, the cost of acquisition for the transferee company shall be the cost of acquisition of transferor company. On the contrary, if exemption has been withdrawn, the cost of acquisition of transferee company shall be the actual cost for which transferee company acquired such asset.

### Withdrawal of exemption u/s 70(1)(zd) / (zf)

On violation of conditions, exemption earlier allowed shall be withdrawn and the amount of profits or gains arising from the transfer of such capital asset not charged earlier shall be deemed to be the profits and gains chargeable to tax of the *successor company* for the tax year in which the requirements are violated.

#### ***Taxpoint***

Withdrawal of exemption	The benefits availed shall be deemed to be the capital gain
Year of taxability	The year in which condition u/s 70(1)(zd) or (zf) are violated.
Who will be liable for tax	Successor company

### Withdrawal of exemption u/s 70(1)(ze)]

On violation of aforesaid conditions, exemption earlier allowed to the company or shareholder shall be withdrawn and amount of profits or gains arising from the transfer of such capital asset or intangible asset or share(s) not charged earlier shall be deemed to be the profits and gains chargeable to tax of the *successor LLP or the shareholder (of predecessor company)* for the tax year in which the requirements of sec. 70(1)(ze) are violated.

#### ***Taxpoint***

Withdrawal of exemption	The benefits availed shall be treated as deemed income
Year of taxability	The year in which conditions are violated.
Who will be liable to tax	For exemption available to the company: Successor LLP For exemption available to the shareholder: Such shareholder
Cost of acquisition of transferred asset in hands of the LLP	<i>If conditions u/s are satisfied:</i> Cost of asset in hands of the company <i>If conditions u/s are not satisfied:</i> Value at which such asset were transferred to the LLP at the time of conversion
Period of holding in hands of the LLP	<i>If conditions are satisfied:</i> Continue. In other words, holding period of the previous owner shall be considered. <i>If conditions are not satisfied:</i> Starts afresh. In other words, holding period of the previous owner cannot be considered.

### Capital gain on transfer of shares / debentures by a non-resident [Sec. 72(6)]

#### **Applicable on**

A *non-resident* assessee (not being an assessee covered u/s 209 and 210)

**Nature of asset**

Capital assets whether long-term or short term being shares in, or debentures of an Indian company acquired by utilizing foreign currency

**Taxpoint:**

- The provision shall also be applicable in respect of capital gains accruing or arising on transfer of shares in, or debentures of, an Indian company, acquired through reinvestment.
- The asset may be a short-term or long-term capital asset.
- The above provision is not applicable to units of UTI and Mutual Funds.

**Procedure**

Capital gain on transfer of above assets shall be computed as under:

- Cost of acquisition, expenditure on transfer and the sale consideration shall be converted into the same foreign currency as was initially utilized in the purchase of the shares or debentures; and
- Capital gains (computed in such foreign currency) shall be reconverted into Indian currency.

**Taxpoint:**

- The method of computation is mandatory and not optional.
- Capital gain shall be determined as under:

Step	Conversion of	Particulars	Conversion rate
1	Full value of consideration	Find sale consideration in Indian currency and convert it into foreign currency	At average exchange rate <sup>1</sup> on the date of transfer
2	Expenditure on transfer	Find expenditure on transfer in Indian currency and convert it into foreign currency	At average exchange rate on the date of transfer (not on the date when expenditure was incurred)
3	Cost of acquisition	Find cost of acquisition in Indian currency and convert it into foreign currency	At average exchange rate on the date of acquisition.
4	Capital gain in foreign currency	Step 1 – Step 2 – Step 3	Not applicable
5	Taxable Capital gain	Capital gain so calculated (in step 4) will be reconverted into Indian currency	At buying rate <sup>2</sup> on the date of transfer
<b>1. <u>Average exchange rate:</u> It is the average of the telegraphic transfer buying rate and telegraphic transfer selling rate.</b>			

**2. Buying Rate:** It is telegraphic transfer buying rate of such currency.

Telegraphic transfer buying/selling rate in relation to a foreign currency is a rate of exchange adopted by the State Bank of India for purchasing/selling such currency where such currency is made available by that bank through telegraphic transfer.

### **Exempted Capital Gain [Sec. 215]**

#### **Applicable to**

Non-resident Indian (i.e. an individual being a citizen of India or a person of Indian origin who is a non-resident)

#### **Conditions**

1. Assessee has transferred any of the following long term capital asset, acquired in convertible foreign exchange:
  - Shares in an Indian company; or
  - Debentures of an Indian public limited company; or
  - Deposits with an Indian public limited company; or
  - Central Government securities.  
(hereinafter referred to as *original asset*)
2. Within 6 months of transfer of original asset, the taxpayer has invested the whole or any part of net consideration in any of the following assets (hereinafter referred to as *new asset*)
  - a) Shares in an Indian company; or
  - b) Debentures of an Indian public limited company; or
  - c) Deposit with an Indian public limited company; or
  - d) Central Government securities; or
  - e) National Savings Certificate VI and VII issues.

#### **Amount of exemption**

Exemption is available to the minimum of the following –

- Long term capital gain; or
- Long term capital gain x Amount invested in the new asset  
Net sale consideration on transfer of original asset

#### **Withdrawal of exemption**

When the new asset acquired by the assessee is transferred or converted into money within 3 years from the date of its acquisition, the capital gains exempted earlier shall be revoked. On revocation of exemption, benefit availed earlier under this section shall be taxed as long-term capital gain in the tax year in which such new asset is transferred or converted into money.

**Note:** Sec. 215 is optional in nature and not mandatory, i.e. an assessee may or may not opt for sec. 215 by giving a declaration in return of income to this effect. [Sec. 218]

### Computation of Capital gain in case of depreciable assets [Sec. 74]

Meaning	The capital asset which forms a part of a block of assets <sup>7</sup> in respect of which depreciation has been allowed u/s 33 as per WDV method.
Nature of Capital gain	Capital gain arising on transfer of depreciable asset shall always be a short-term capital gain.
Computation	For computation of capital gain on transfer of such asset, refer Depreciation of the chapter “Profits & gains of business or profession”
<p><b>Note:</b> Depreciable asset itself may be a long-term capital asset or short-term capital asset depending upon the period of holding (whether held for more than 24 months or not), however, gain on transfer of aforesaid depreciable asset shall always be short-term capital gain.</p>	

### Capital gains in case of Market Linked Debentures [Sec. 76]

Where capital asset being -

- a. Unit of a Specified Mutual Fund acquired on or after 01-04-2023; or
- b. Unit of a Market Linked Debenture; or
- c. Unlisted bond or an unlisted debenture
  - is transferred, capital gain shall be computed as under:

Full value of consideration received or accruing on transfer or redemption or maturity of such debenture or unit or bond or debenture	xxx
Less: Expenses on Transfer (STT is not allowed)	xx
<b>Net Consideration</b>	xxx
Less: Cost of acquisition of the debenture or unit	xx
<b>Short Term Capital Gain (irrespective of period of holding)</b>	xxx

**Taxpoint:**

- No deduction shall be allowed in computing the "Capital gains" in respect of STT
- Such gain shall be taxable at regular rate.
- *Market Linked Debenture* means a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any security classified or regulated as a market linked debenture by the SEBI;

<sup>7</sup> Block of asset does not include goodwill of business or profession

- *Specified Mutual Fund* means a Mutual Fund, by whatever name called, which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of such Mutual Fund, subject to the following:—
- i. the percentage of investment in debt and money market instruments or in units of a fund shall be computed with reference to the annual average of the daily closing figures;
  - ii. debt and money market instruments shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India

### Capital gain on Slump Sale [Sec. 77]

**Definition [Sec. 2(103)]:** **Slump sale** means the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer

“*Undertaking*” shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity

Computation of capital gain

Full value of consideration	Fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner (Rule 53), shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset Accordingly, the fair market value (FMV) of capital assets would be the higher of – a. <b>FMV1:</b> The Fair Market Value of the capital assets transferred (i.e., the intrinsic value of the business going out). b. <b>FMV2:</b> The Fair Market Value of the consideration received (i.e., the value of what comes in).
Cost of Acquisition or Improvement	Net worth <sup>#</sup> of the undertaking
Nature of gain whether short term or long term	If undertaking is owned and held by the assessee for not more than 36 months, then capital gain shall be deemed to be short-term capital gain otherwise long-term capital gain. <b>Note:</b> Where an undertaking is owned and held by an assessee for more than 36 months immediately preceding the date of its transfer, then it shall be treated as a long-term capital asset. It makes no difference that few of the assets of the undertaking are newly acquired (i.e. for less than 36 months).
<i>Net worth</i> shall be the –	

Aggregate value of total assets of the undertaking

*Less:* Value of liabilities of such undertaking as appearing in the books of account

Net worth

**Notes**

1. **Effect of revaluation:** If any change has been made in the value of assets on account of revaluation of assets etc. then such change in value shall be ignored.
2. **The aggregate value of total assets, in case of:**
  - Capital asset being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner - Nil
  - Depreciable assets - WDV of block of assets
  - Capital assets in respect of which the whole of the expenditure has been allowed as a deduction u/s 46 - Nil
  - Other assets - Book value of such assets
3. **Treatment of stock:** In case of slump sale, no profit under the head 'Profits & gains of business or profession' shall arise even if the stock of the said undertaking is transferred along with other assets.
4. **Carry-forward of losses:** In case of slump sale, benefit of unabsorbed losses and depreciation of the undertaking transferred shall be available to the transferor company and not to the transferee company.

**Report of an accountant**

The assessee is required to upload one month prior to the due date of filing of the return of income, a report of a chartered accountant in Form 28 (Rule 54) indicating the computation of the net worth of the undertaking or division and certifying that the net worth of the undertaking or division has been correctly arrived at in accordance with the provisions of this section.

**Valuation of consideration in case of land or building or both [Sec. 78]**

**Conditions**

- a) Capital asset being land or building or both (whether depreciable or non depreciable) is transferred.
- b) Value adopted or assessed or assessable by the stamp valuation authority exceeds 110% of actual consideration.

**Tax treatment**

Full value of consideration shall be the value adopted or assessed or assessable<sup>#</sup> by any authority of a State Government (i.e. Stamp Valuation authority) for the purpose of payment of stamp duty.

# *Assessable* means the price which the stamp valuation authority would have adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.

***Taxpoint:*** *Where value adopted or assessed or assessable by the stamp valuation authority does not exceed 110% of actual consideration or where such value is less than actual consideration, then actual consideration shall be considered as full value of consideration.*

### **Provision Illustrated**

Mr. Raj has a self-occupied house property acquired 10 months ago for ₹ 5,00,000. He sold such property for ₹ 6,00,000 to Rajshree.

**Case (a):** Stamp duty authority for the purpose of levying stamp duty adopted value of ₹ 6,25,000.

**Case (b):** Stamp duty authority for the purpose of levying stamp duty adopted value of ₹ 6,75,000.

Compute capital gain on such transfer.

### **Solution**

Computation of capital gain

<b>Particulars</b>	<b>Case (a)</b>	<b>Case (b)</b>
Sale consideration		
- Actual Consideration	6,00,000	6,00,000
- Value adopted for stamp duty	6,25,000	6,75,000
Value adopted for stamp duty (i.e. ₹ 6,25,000) does not exceed 110% of actual consideration (i.e., ₹ 6,60,000 being 110% of ₹ 6,00,000)	6,00,000	
Value adopted for stamp duty (i.e. ₹ 6,75,000) exceeds 110% of actual consideration (i.e., ₹ 6,60,000 being 110% of ₹ 6,00,000)		6,75,000
<i>Less:</i> Cost of acquisition	5,00,000	5,00,000
<b>Short Term Capital Gain</b>	<b>1,00,000</b>	<b>1,75,000</b>

### **Reference to Valuation Officer**

The Assessing Officer can refer the case to the Valuation Officer for the purpose of valuation of asset transferred if following conditions are satisfied:

- Assessee claims before any Assessing Officer that the value adopted or assessed or assessable by such authority (i.e. Stamp Valuation authority) exceeds the fair market value of the property as on the date of transfer; &
- The value so adopted or assessed or assessable by the stamp valuation authority has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

### ***Consequences where the value is determined by the Valuation Officer***

Case	Result
If the value determined by the Valuation Officer exceeds the value adopted or assessed or assessable for the purpose of stamp duty	Value adopted or assessed or assessable for the purpose of stamp duty shall be taken as full value of consideration.
If the value determined by the Valuation Officer does not exceed the value adopted or assessed or assessable for the purpose of stamp duty	Value determined by the Valuation Officer shall be taken as full value of consideration.

**Taxpoint:** Where the valuation is referred to the Valuation Officer, full value of consideration shall be taken as minimum of the following –

- Value adopted or assessed or assessable for the purpose of stamp duty;
- Value determined by the Valuation Officer.

**Difference in date of agreement and date of registration**

Situation

Where:

- a. the date of the agreement fixing the amount of consideration; and
  - b. the date of registration for the transfer of the capital asset
- are not the same.

Condition

The amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through specified electronic modes, on or before the date of the agreement for transfer.

Treatment

The value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer.

**Revision of value of such asset:** If the value adopted for stamp duty purposes is revised in any appeal, revision or reference, the assessment earlier made shall be amended to re-compute the capital gains by taking the revised value as sale consideration

**Illustration 11**

Mr. A, who transfers land and building on 2-01-2027, furnishes the following information:

- a) Net consideration received ₹ 10 lakhs;

- b) Value adopted by stamp valuation authority, which was not contested by Mr. A ₹ 12 lakhs;
- c) Value ascertained by Valuation Officer on reference by the Assessing Officer ₹ 13 lakhs;
- d) This land was distributed to Mr. A on the partial partition of his HUF on 1-04-2001. Fair market value of the land as on 1-04-2001 was ₹ 1,00,000.
- e) A residential building was constructed on the above land by Mr. A at a cost of ₹ 2,00,000 (construction completed on 1-12-2004) during the Financial Year 2004-05.

Compute capital gain and tax on it. Assume CII for year 2026-27 is 400

### **Solution**

Where resident individual or resident HUF has transferred a long-term capital asset being land, building or both being acquired before 23-07-2024, then, the assessee has the option to pay tax:

**Option 1** – Pay tax @ 12.5% without considering index benefit

**Option 2** – Pay tax @ 20% after considering index benefit.

Computation of capital gain of Mr. A for tax year 2026-27

Particulars	Option 1		Option 2	
	Amount	Amount	Amount	Amount
Sale Consideration (Higher of following)				
- Actual consideration	10,00,000		10,00,000	
- Value as per Valuation Officer (max. of value adopted for stamp valuation)	12,00,000	12,00,000	12,00,000	12,00,000
<i>Less: Indexed / Cost of acquisition</i>				
- Land [₹ 1,00,000 * 400/100]	1,00,000		4,00,000	
- Building [₹ 2,00,000 * 400/113]	2,00,000	3,00,000	7,07,965	11,07,965
<b>Long term capital gain</b>		9,00,000		92,035
<b>Tax (before surcharge and cess) on above</b>		1,12,500		18,407

Long term capital gain is ₹ 9,00,000 and tax on it shall be ₹ 18,407/-

### **Valuation of consideration in case of unquoted shares [Sec. 79]**

Where capital asset, being share of a company other than a quoted share, is transferred for a consideration which is less than the fair market value of such share, the fair market value shall be deemed to be the full value of consideration.

*"Quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.*

The provision is not applicable to any consideration received or accruing as a result of transfer by prescribed class of persons.

### Capital gain in the case of self-generated assets

Cost of acquisition and cost of improvement of following self-generated asset shall be treated as Nil:

Cost of Acquisition	Cost of Improvement
<ul style="list-style-type: none"> <li>• Goodwill of a business or profession; or</li> <li>• Trademark or brand name associated with a business or profession or any other intangible asset; or</li> <li>• Right to manufacture, produce or process any article or thing; or</li> <li>• Right to carry on any business or profession,</li> <li>• Tenancy rights,</li> <li>• Stage carriage permits; and</li> <li>• Loom hours or any other right</li> </ul>	<ul style="list-style-type: none"> <li>• Goodwill or any other intangible asset of a business; or</li> <li>• Right to manufacture, produce or process any article or thing; or</li> <li>• Right to carry on any business or profession; or</li> <li>• Any other right.</li> </ul>

However, where aforesaid capital assets are purchased (or acquired from previous owner), then cost of acquisition shall be determined as under –

Case	Cost of acquisition
Acquisition of such asset by purchase	Purchase price or Purchase price of such previous owner
<p><b><u>Treatment of self-generated asset generated before 1/4/2001:</u></b> If aforesaid assets are developed or purchased before 1/4/2001, the option of adopting fair market value shall <i>not</i> be applicable and even in such case the cost of acquisition shall be computed as per the above table.</p> <p><b><u>Depreciable Asset:</u></b> Where the capital asset, being goodwill of a business or profession, in respect of which a deduction on account of depreciation has been obtained by the assessee upto tax year 2019-20, the cost of acquisition (being purchase price) shall be reduced by the depreciation obtained by the assessee.</p>	

### Capital gain in case of bonus share or units

The cost of acquisition of financial asset, being allotted on the basis of holding of any other financial asset to the assessee without any payment, shall be

Case	Cost of acquisition
Bonus stripping u/s 175(9) / (10) is applicable	As per sec. 179(9) / (10)

Where capital gain is covered u/s 198 and bonus shares / unit were allotted before 01-02-2018	Lower of the following a. Fair Market Value on 31-01-2018 b. Sale price
Any other case where bonus share / unit is allotted before 01-04-2001	Fair Market Value on 01-04-2001
Any other case where bonus share / unit is allotted on or after 01-04-2001	Nil

### Capital gain in case of transfer of right share and right entitlement

**Right Share:** Where, by virtue of holding a share or any other security, (hereinafter this clause referred to as the financial asset), the assessee becomes entitled to subscribe to any additional financial asset, then such additional financial asset can be termed as right share. The cost of acquisition of such right share shall be the amount actually paid by him for acquiring such right share.

**Right Entitlement:** An assessee can endorse his right to acquire additional financial asset (as stated above) in favour of other person. Such endorsement of right is termed as right renouncement. Cost of acquisition of such right entitlement shall be taken as nil.

***Tax treatment of right issue and right entitlements shall be as under:***

Case	Right shares	Right Entitlement	Shares acquired by Right Renouncee
Cost of Acquisition	Right issue price	Nil	Amount paid for acquisition of right entitlements + Amount paid to company for right share
Period of holding starts from	The date of allotment of such shares	The date of declaration of such right by the company	The date of allotment of such shares
Full value of consideration	Amount charged from transferee	Amount charged from transferee	Amount charged from transferee

### Conversion of inventory into capital assets

Where inventory is converted into, or treated as, a capital asset, the fair market value of such inventory as on the date of such conversion is considered as business income u/s 26. If such capital asset is transferred then it will be treated as under:

Full value of consideration	As usual
Cost of acquisition	Fair Market Value taken as income u/s 26

Period of holding	Starts from the date of such conversion or treatment
-------------------	--

### Capital Gain on Virtual Digital Assets [Sec. 115BBH r.w.s 2(47A)]

As per sec. 2(111), virtual digital asset means:

- a. any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, called by any name, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
- b. a non-fungible token or any other token of similar nature, by whatever name called;
- c. any other notified digital asset
- d. any crypto-asset being a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions, whether or not such asset is included in aforesaid clauses

Taxpoint:

- The Central Government hereby specifies a token which qualifies to be a virtual digital asset as non-fungible token but shall not include a non-fungible token whose transfer results in transfer of ownership of underlying tangible asset and the transfer of ownership of such underlying tangible asset is legally enforceable.
- Vide Notification No. 74/2022 dated 30/06/2022, the Central Government has notified following virtual digital assets which shall be **excluded** from the definition of virtual digital asset:
  - i. Gift card or vouchers, being a record that may be used to obtain goods or services or a discount on goods or services;
  - ii. Mileage points, reward points or loyalty card, being a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services;
  - iii. Subscription to websites or platforms or application.

**Tax Treatment**

Rate of tax

Any income from the transfer of any virtual digital asset (VDA) shall be taxable @ **30%**.

Computation of income on transfer of such assets

While computing such income:

- a. Deduction in respect of any expenditure (other than cost of acquisition, if any) or allowance or set off of any loss shall **not** be allowed to the assessee.
- b. Set off of loss from transfer of the virtual digital asset shall **not** be allowed against other income
- c. Loss from transfer of the virtual digital asset shall **not** be allowed to be carried forward to succeeding tax years.

In nutshell,

Cost of acquisition	✓	Allowed
Other expenditure (like improvement expenses, expenses on transfer, etc.)	✗	Not allowed
Loss on transfer of VDA	✗	No adjustment with other income
Loss from other activities	✗	No adjustment with income on transfer of VDA
Carry forward of loss on transfer of VDA	✗	Not allowed

## Section Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
<b>Definitions</b>		
Capital Asset	2(14)	2(22)
Short-Term Capital Asset	2(42A)	2(101)
Long-Term Capital Asset	2(29A)	2(67)
Transfer	2(47)	2(109)
<b>Chargeability &amp; Computation</b>		
Basis of Charge	45(1)	67(1)
Computation Mechanism	48	72
Cost of Improvement	55(1)	90(1)

<b>Special Transfer Cases</b>		
Insurance Claim	45(1A)	67(2)
Conversion to Stock-in-Trade	45(2)	67(6)
Partner to Firm	45(3)	67(9)
Dissolution of Firm/AOP	45(4) & 9B	67(10) & 8
Compulsory Acquisition	45(5)	67(12)
Joint Development (JDA)	45(5A)	67(14)
Liquidation (Shareholders)	46(2)	68(2)
Buyback of Shares	46A	69
<b>Restructuring &amp; Exempt Transfers</b>		
Exempt Transfers (General)	47	70(1)
Partition of HUF	47(i)	70(1)(a)
Holding & Subsidiary	47(iv)/(v)	70(1)(c)/(d)
Amalgamation	47(vi)	70(1)(e)
Demerger	47(vib)	70(1)(j)
<b>Notional Values &amp; Costing</b>		
Deemed Cost of Acquisition	49(1)	73(1)
Depreciable Assets	50	74
Market Linked Debentures	50AA	76
Slump Sale	50B	77
Stamp Duty Value (Land)	50C	78
Unquoted Shares	50CA	79
<b>Deductions (Exemptions)</b>		
Residential to Residential	54	82
Agricultural Land	54B	83
Industrial Undertaking	54D	84
Specified Bonds	54EC	85
Any Asset to Residential	54F	86



<b>Tax Rates</b>		
STCG (STT Paid)	111A	196
LTCG (STT Paid)	112A	198
LTCG (Other)	112	197
Virtual Digital Assets	115BBH	194

## **INCOME FROM OTHER SOURCES**

As per sec. 92(1), any income, which is not specifically exempted and not chargeable under any other heads of income, shall be chargeable under the head "Income from other sources". This is the last and residuary head of income.

Further, without prejudice to the generality of the aforesaid provision, sec. 92(2) provides a list of income which is specifically taxable under this head

### **Income specifically chargeable under this head**

1. Dividends [Sec. 92(2)(a)] [discussed later]
2. Casual income e.g. Winning from lotteries, etc. [Sec. 92(2)(b)] [discussed later]
3. Gift [Sec. 92(2)(m)] [discussed later]
4. Income by way of interest received on compensation or on enhanced compensation [Sec.92(2)(i)] [discussed later]
5. Sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if:
  - (a) such sum is forfeited; and
  - (b) the negotiations do not result in transfer of such capital asset [Sec. 92(2)(h)]
6. Any specified sum received by a unit holder from a business trust during the tax year, with respect to a unit held by him at any time during the tax year. [Sec. 92(2)(k)] [discussed later]
7. Any sum received under a life insurance policy [Sec. 92(2)(l)] [discussed later]

### **Income chargeable under this head if not charged under the head 'Profits and gains of business or profession'**

8. Any sum received by the assessee from his employees as contribution to provident fund, etc. [Sec. 92(2)(c)]
9. Interest on securities [Sec. 92(2)(e)]
10. Income from letting of machinery, plant or furniture [Sec. 92(2)(f)] [discussed later]
11. Composite Rent [Sec. 92(2)(g)] [discussed later]

### **Income chargeable under this head if not charged under the head 'Profits and gains of business or profession' or under the head 'Salaries'-**

12. Any sum (including bonus) received under a Keyman Insurance Policy [Sec. 92(2)(d)]

*Keyman Insurance Policy* means a life insurance policy:

- i. taken by a person on the life of another person;
- ii. such person is or was the employee of the first-mentioned person or is or was connected in any manner with the business of the first-mentioned person; and
- iii. includes such policy which has been assigned to a person at any time during the term of the policy, with or without any consideration

13. Any compensation or other payment, due to or received by any person, in connection with the termination of his employment or the modification of the terms and conditions relating thereto. [Sec. 92(2)(j)]

**Apart from above, the following incomes are also chargeable under this head by virtue of sec. 92(1)** In this regard it is to be noted that the following list is merely indicative and not exhaustive.

1. Income from sub-letting of a house property.
  2. Interest on bank deposits.
  3. Interest on company deposits, interest on loans, etc.
  4. Remuneration received from a person other than his employer for evaluation of answer scripts. However, if such remuneration is received from employer, then the same will be taxable under the head “Salaries”.
  5. Rent from a vacant land.
  6. Insurance commission.
  7. Income from undisclosed sources
  8. Income from private tuition.
  9. Interest on income tax refund.
- Taxpoint:*** *Income tax refund itself is not an income.*
10. Family pension received by the family members of a deceased employee [discussed later]
  11. Directors’ sitting fee for attending Board Meetings.
  12. Stipend to trainee.

### **Basis of Chargeability [Sec. 276]**

Income under this head shall be chargeable on ‘accrual’ or ‘cash’ basis depending on the method of accounting regularly followed by the assessee (i.e. either mercantile or cash system of accounting), subject to Income Computation and Disclosure Standards (ICDS).

***Exception:*** Dividend is charged as per the method specified in sec. 7(2) (discussed later in this chapter)

### **Dividend [Sec. 2(22)]**

Dividend, in general, means the amount received by a shareholder (whether in cash or in kind) in proportion to his shareholding in a company whether out of past or present income; or taxable or exempted income; or revenue or capital income. However, the Income-tax Act gives an inclusive definition of dividend.

As per sec. 2(40), the following payments or distributions by a company to its shareholders are deemed as dividends *to the extent of accumulated profits* of the company:

- a) Any distribution of accumulated profits (whether capitalized or not), which entails the release of assets of the company to its shareholder [Sec. 2(40)(a)]

**Taxpoint**

1. **Bonus share:** Bonus share declared by the company to its equity share-holders shall not be treated as dividend as there is no release of asset.
2. **Valuation:** In case of release of asset other than cash, the market value of the asset and not the book value shall be considered as deemed dividend in the hands of shareholder.

- b) Any distribution of -

- Debenture, debenture-stock, deposit certificates in any form whether with or without interest to its shareholders (equity as well as preference); and
- Shares to preference shareholders by way of bonus,  
- to the extent to which company possess accumulated profit (whether capitalized or not) [Sec. 2(40)(b)]

**Taxpoint:**

- *Such distribution shall be treated as dividend in the hands of recipient even there is no release of assets of the company.*
- *Bonus shares given to equity shareholders are not treated as dividend.*

- c) Distribution made on liquidation to the extent to which company possess accumulated profit immediately before liquidation (whether capitalized or not) [Sec. 2(40)(c)]

**Taxpoint**

1. **Payment to preference shareholder:** Any distribution of asset made in respect of preference share (issued for full cash consideration) shall not be treated as dividend.
2. **Distribution out of profits earned after liquidation:** Any distribution made out of profits earned after the date of liquidation shall not be treated as dividend u/s 2(40)(c).

- d) Distribution made on reduction of capital of the company to the extent it possesses accumulated profit (whether capitalized or not) [Sec. 2(40)(d)]

**Exception:** Any distribution in respect of preference share shall not be treated as dividend.

- e) Any payment (whether in cash or in kind) by a **company in which public are not substantially interested** to the extent of accumulated profit (excluding capitalized profit) -

- i) by way of loan or advance to its equity shareholder, who is beneficial owner of the shares, holding not less than 10% of voting power in the company (hereinafter referred as *specified shareholder*);

**Taxpoint**

*The shareholder should have atleast 10% voting power as on the date of when loan is given.*

- ii) by way of loan or advance to a concern (whether HUF, Firm, AOP, BOI or a Company) in which such specified shareholder is a member or partner at the time of such payment and has substantial interest<sup>#</sup> in such concern; or

<sup>#</sup>*Substantial interest:* A person shall be deemed to have substantial interest in a concern, if he is beneficially entitled to not less than 20% of income of such concern (20% of voting power in case of company) at any time during the tax year.

**Taxpoint:**

➤ *The clause is applicable where –*

- a) *Such shareholder holds at least 10% voting right in the payer company as on the date when loan is given;*
- b) *Such specified shareholder is a member or partner in the payee concern as on the date of loan; and*
- c) *Such shareholder should have atleast 20% share in profit / voting power in the payee concern at any time during the tax year.*

- iii) made on behalf of or for the benefit of such specified shareholder [Sec. 2(40)(e)]

**Taxpoint**

- **No exemption on repayment of such loan:** Loan to a specified-shareholder is treated as deemed dividend even if such loan or any part of such loan was refunded before the end of tax year.

**Exceptions**

- a. **Set-off of loan with forthcoming declaration of dividend:** In case the loan granted to member is adjusted with the forthcoming dividend, then such dividend (newly declared) shall not be taxable in the hands of shareholder who adjusted such loan.
- b. **Advance or loan in the ordinary course of business:** Sec. 2(40)(e) is not applicable if an advance or loan is made by a company in the ordinary course of its business, where the lending of money is substantial part of the business of the company.
- c. **Trade Advance:** The Board has, vide Circular No. 19/2017 dated 12-06-2017, clarified that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(40)(e) and therefore, the same would not to be treated as deemed dividend.
- d. **Demerger:** Any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company) is not considered as dividend
- e. **Group Entities:** Any advance or loan between two group entities, where,—
  - A. one of the group entity is a "Finance company" or a "Finance unit"; and
  - B. the other group entity to the transaction is located in specified country or territory outside India; and
  - C. the parent entity or the principal entity of such group is listed on the stock exchange in specified country or territory outside India.

- *Parent entity or principal entity* in relation to one or more other group entities, shall be an entity of which other group entities are subsidiary and such entity:
  - a. exercises or controls more than ½ of the total voting power either at its own or together with one or more of its subsidiaries; or
  - b. controls the composition of the Board of Directors.

**Meaning of Accumulated profit**

For the purpose of dividend u/s 2(40), accumulated profit shall be:

Case	Accumulated profit
Company which is not in liquidation	Up to the date of distribution or payment
Company which is in liquidation	Up to the date of liquidation
Dividend u/s 2(40)(e)	Up to the date of grant of such loan or advance.

**Taxpoint:** In the case of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation.

**Tax treatment**

Dividend (from foreign company, domestic company or co-operative society) is taxable in the hands of the shareholder.

**Basis of Charge [Sec. 7(2)]**

Dividend is not taxable on the basis of accounting method, but charged as per the following schedule -

Dividend	Year of taxability
Normal	Year in which it is declared by the company
Interim	Year in which amount of dividend is unconditionally made available
Deemed	Year in which it is distributed or paid by the company

**Place of accrual [Sec. 9(4)]**

Dividend shall be deemed to accrue or arise in India, if it is declared by an Indian company.

**Deduction available from dividend income [Sec. 93(2)]**

No deduction shall be allowed from the dividend income, or income in respect of units of a Mutual Fund

**Casual Income: Winning from lotteries, crossword puzzles, etc. [Sec. 92(2)(b)]**

Winnings from -

1. Lotteries;
2. Crossword puzzles;
3. Races including horse races;
4. Gambling and betting of any nature or form; or
5. Card games, game show or entertainment program on television or electronic mode and any other game of any sort,

- are taxable under this head.

*Lottery* includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called.

*Card game and other game of any sort* includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

**Exemption/deduction:** Such income shall be fully taxable & no deduction shall be allowed.

**Tax rate [Sec. 194]:** Tax is charged at a flat rate of 30% + applicable surcharge + HEC @ 4%.

**Taxpoint**

- a) ***Income of jockey:*** Income of jockey from such profession is not treated as winning from horse races.
- b) ***Benefit of unexhausted basic exemption limit:*** Not available

### Tax on Winning from Online Games [Sec. 194 Table S. No. 5]

Winning from Online Games shall be taxable under this head:

<b>Meaning</b>	Online game means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device
<b>Income</b>	Net winning from online game during the tax year computed as per Rule 135
<b>Tax Rate</b>	30% + Surcharge, if applicable + HEC @ 4%
<b>Expenditure</b>	No expenditure or allowance can be allowed from such income
<b>Deduction u/ch VIA</b>	Not available
<b>Benefit of unexhausted basic exemption limit</b>	Not available
<b>Taxpoint</b>	Internet means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of

	computer networks that transmits information based on a protocol for controlling such transmission
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### Employee's contribution towards staff welfare fund or scheme [Sec. 92(2)(c)]

Any amount received by the assessee from employee as contribution to -

- Provident Fund;
- Superannuation Fund;
- Fund set up under the provisions of Employee's State Insurance Act, 1948; or
- Other fund set up for the welfare of such employees,

shall be treated as income of the assessee under this head if not taxable under the head "Profits & gains of business or profession". Subsequently, when such sum is credited by the assessee to the employee's account in the relevant fund as per sec. 29(1)(e) [i.e., on or before the due date of filing return of income u/s 263(1)], then deduction of equal amount is available.

### Interest on Securities [Sec. 92(2)(e)]

As per sec. 2(60), "interest on securities" means -

- a) Interest on any security of the Central Government or a State Government;
- b) Interest on debentures or other securities issued by or on behalf of -
  - a local authority; or
  - a company; or
  - a corporation established by a Central, State or Provincial Act.

#### Tax treatment

Case	Treatment
When the securities are held as stock-in-trade	Interest on such securities is charged to tax under the head 'Profits & gains of business or profession'
When the securities are held otherwise than as stock-in-trade.	Interest on such securities is charged to tax under the head 'Income from other sources'

**Chargeability:** It is taxable as per cash basis or due basis, depending on the method of accounting regularly followed by the assessee.

#### Expenditure allowed as deductions

As per sec. 93(1)(a), the following expenditure (to the extent it is reasonable) are deductible from interest income:

- a) Commission;
- b) Collection expenditure
- c) Any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for making or earning such income;

**Taxpoint:** However, any expenses covered u/s 94 shall not be allowed

**Avoidance of tax by certain transaction in securities [Sec. 175]**

1. **Bond Washing Transactions [Sec. 175(1)]**: Interest on securities shall not accrue on day-to-day basis. It accrues on the due date of interest as prescribed by issuing authority. Entire interest shall be charged in the hands of assessee who holds security on such date (irrespective of the date of acquisition of such security). Tax liability may be evaded by transferring securities just before the due date of interest (interest includes dividend) to any person (like friend or relative who has low income) and reacquiring the same, after the interest is received by the transferee. With this practice, income, which should have been charged at higher rate, shall be charged at lower rate or nil rates. To avoid these practices, sec. 175(1) provides that -

where an assessee transfers the securities before the due date of interest and reacquires the same (or similar securities), then the interest received by the transferee will be deemed to be the income of the transferor.

*E.g:* Mr. X transferred 1,000 10% debentures (due date of interest of such debenture is 31<sup>st</sup> March every year), to his brother Mr. Y on 27/03/2027 to evade tax. Such security is repurchased by him on 5/04/2027. Interest for the tax year 2026-27, though received by Mr. Y shall be taxable in hands of Mr. X due to sec. 175(1).

2. **Transaction relating to securities resulting into less or no income**: Sec. 175(3) provides that -

- Where a person has had at any time during the tax year any beneficial interest in securities; &
- The result of any transaction relating to such securities is that, either no income is received by him or the income received by him is less than the income from such securities on day to day basis,
  - then the income from such securities for such year shall be deemed to be the income of such person.

**Exceptions to sec. 175(1) & 175(3)[Sec. 175(4)]**

However, aforesaid provisions shall not be applicable, if the owner of securities satisfies the AO that -

- (i) There has been no avoidance of income tax or the avoidance of income tax is exceptional and not systematic; and
- (ii) There was not any avoidance of income tax u/s 175 during any of the 3 preceding years.

**Note:** The Assessing Officer may (by notice in writing) require any person to furnish within such time (not less than 28 days), such particulars as he considers necessary in respect of all securities -

- of which such person was the owner; or
- in which he had a beneficial interest at any time during the period specified in the notice [Sec. 175(7)]

### **Income from machinery, plant or furniture let on hire [Sec. 92(2)(f)]**

Income from letting of machinery, plant or furniture on hire is charged to tax under this head, if such income is not chargeable under the head "Profits and gains of business or profession".

#### **Taxpoint**

- a) Any income by way of letting out an asset as a part of business activity or as commercial asset shall be taxable under the head "Profits & gains of business or profession".
- b) In case of temporary discontinuance of business due to any reason without any intention of the assessee to part with or close the business, if the business assets are leased out for a certain period, then such lease rent shall be taxed under the head "Profits & gains of business or profession".

### **Income from machinery, plant or furniture let on hire along with building (Composite Rent) [Sec. 92(2)(g)]**

Generally, income from letting of building is taxable under the head Income from house property; but if such letting is inseparable from letting of machinery, plant or furniture, then income from such letting is charged to tax under the head "Income from other sources" if not taxed under the head "Profits & gains of business or profession".

#### **Taxpoint**

1. If letting of such building alone is acceptable, then income from letting of building is taxable under the head 'Income from house property'.
2. Mere knowledge of rent charged against each asset does not make it separable, unless and until the property is separately lettable.

### **Deductions allowed against income u/s 92(2)(f) & 92(2)(g) [Sec. 93(c) & (e)]**

Following expenditures are deductible from such income:

1. Current repairs (not being capital expenditure)
2. Insurance premium paid against risk of damage or destruction;
3. Land revenue and local tax paid
4. Depreciation and unabsorbed depreciation
5. Any other revenue expenditure expended, during the tax year, wholly and exclusively for earning such income.

## Family pension

**Meaning:** Family pension means a regular monthly amount payable by the employer to a person belonging to the family of a deceased employee (e.g. widow or legal heirs of a deceased employee)

**Tax Treatment:** It is taxable under the head “Income from other sources” after allowing standard deduction.

### Standard Deduction [Sec. 93(1)(d)]

Minimum of:  $1/3^{\text{rd}}$  of such pension; or ₹ 15,000 [However, if the assessee is under new tax regime, ₹ 25,000]

**Taxpoint:** Lump-sum payment made gratuitously or by way of compensation or otherwise to the widow or other legal heirs of an employee, who dies while still in service, is non-taxable income.

### Illustration 1

Sunder died on 31<sup>st</sup> July 2026 while being in Central Government service. In terms of rules governing his service, his widow Mrs. Sunder is paid a family pension of ₹ 10,000 p.m. and dearness allowance of 40% thereof. State whether the amount of family pension is assessable in her hands, and if so, under what head of income. Can she claim any relief/deduction on such receipt?

### Solution

Computation of gross total income of Mrs. Sunder for the tax year 2026-27

Particulars	Old Tax Regime		New Tax Regime	
	Details	Amount	Details	Amount
<i>Income from other sources</i>				
Family pension [(₹ 10,000 + ₹ 4,000) x 8] [From 01-08-2026 to 31-03-2027]		1,12,000		1,12,000
<i>Less:</i> Standard deduction being minimum of the following:				
a) $1/3^{\text{rd}}$ of the pension	37,333		37,333	
b) Statutory limit	15,000	15,000	25,000	25,000
<b>Total Income</b>		<b>97,000</b>		<b>87,000</b>

## Income by way of interest received on compensation or on enhanced compensation [Sec. 92(2)(i)]

Interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is *received*.

**Tax Treatment:** It is taxable under the head “Income from other sources” after allowing standard deduction of 50% of such income.

E.g., During the tax year 2026-27, Mr. X received ₹ 65,000 (₹ 45,000 pertaining to the tax year 2025-26) as interest on delayed compensation. Such interest after allowing standard deduction shall be considered as an income of the tax year 2026-27 (irrespective of tax year to which such interest pertains). Thus, ₹ 32,500 (i.e., ₹ 65,000 – ₹ 32,500 being standard deduction @ 50%) shall be considered as income of the tax year 2026-27.

### **Distribution by business trust to unit holders [Sec. 92(2)(k)]**

Any specified sum received by a unit holder from a business trust during the tax year, with respect to a unit held by him at any time during the tax year shall be taxable as income from other sources

**Taxpoint**

Specified sum = A – B - C (If it is negative, it shall be deemed to be zero),

- A = Aggregate of the sum distributed by the business trust with respect to such unit, during the tax year (or during any earlier tax year or years), to such unit holder, (who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution), which is:
  - a. not in the nature of income referred to in Schedule V Table S No. 3 or 4; and
  - b. not chargeable to tax u/s 223(2)
- B = Amount at which such unit was issued by the business trust
- C = Amount charged to tax under this clause in any earlier tax year

**Taxpoint**

- As per Schedule V (Table S No. 3), following income of a business trust is not taxable:
  - a. interest received or receivable from a special purpose vehicle; or
  - b. dividend received or receivable from a special purpose vehicle.
- As per Schedule V (Table S No. 4), any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust is not taxable

**Example**

Particulars	₹	Tax Treatment
REIT or InvIT Unit issue price	₹ 200	
Amount received by a unit holder		
- in tax year 2023-24	₹ 20	There will be no tax implications because the amount is less than the issue price.
- in tax year 2024-25 to tax year 2030-31	₹ 180	
- in tax year 2031-32	₹ 10	Since cumulative distribution has become ₹ 210, hence, ₹ 10 shall be taxable in the hands of the investor in the tax year 2031-32.

- in tax year 2032-33	₹ 20	Since cumulative distribution has become ₹ 230, hence, ₹ 20 shall be taxable in the hands of the investor in the tax year 2032-33 [since the investor already paid tax on ₹ 10 in the earlier tax year]
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### Sum received under a Life Insurance Policy [Sec. 92(2)(I)]

Any sum received, including bonus, at any time during a tax year, under a life insurance policy shall be taxable under the head Income from Other Sources, if following conditions are satisfied:

- Such receipt does **not** exempt u/s Schedule II (Table S No. 2); or
- Such sum is **not** received under a unit linked insurance policy; or
- Such sum is **not** received under a keyman insurance policy

#### Computation of income [Rule 59]

Sum Received during the tax year	<i>less</i>	Aggregate of the premium paid, during the term of such life insurance policy, <b>and</b> not claimed as deduction under any other provision of this Act
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#### Taxpoint

As per Schedule II (Table S No. 2), in the following cases, sum received under a life insurance policy is not taxable:

Policy	Condition(s)	If Taxable, then		
<b><i>Life insurance policy</i></b>				
Sum is received on the death of a person	-	Exempt		
Sum is received on maturity	The premium payable for any year does not exceed the following % of actual capital sum assured:	If conditions are not satisfied, then it shall be taxable as Income from Other Sources		
	Policy issued		Insured is disable <sup>1</sup> or suffering from disease specified u/s 128 (old 80DDB)	Insured is any other person
	Upto 31-03-2003		No Restriction	

<sup>1</sup> Disable or severe disable as referred to in sec. 154 (old 80U)

	During 01-04-2003 to 31-03-2012	20%	20%	
	During 2012-13	10%	10%	
	During 01-04-2013 to 31-03-2023	15%	10%	
	On or after 01-04-2023	15%	10%	
		Aggregate amount of premium does not exceed ₹ 5 lakh in any of the tax years during the term of any of those policies issued on or after 01-4-2023		
<b>Unit linked Insurance Policies</b>				
Sum is received on the death of a person	-			Exempt
In other case	The premium payable for any year does not exceed the following % of actual capital sum assured:			If conditions are not satisfied, then it shall be taxable u/s 67(5) [i.e., capital gains]
	<b>Policy issued</b>	<b>Insured is disable<sup>2</sup> or suffering from disease specified u/s 128 (old 80DDB)</b>	<b>Insured is any other person</b>	
	Upto 31-03-2003	No Restriction		
	During 01-04-2003 to 31-03-2012	20%	20%	
	During 2012-13	10%	10%	

<sup>2</sup> Disable or severe disable as referred to in sec. 154 (old 80U)

	During 01-04-2013 to 31-01-2021	15%	10%	
	On or after 01-02-2021	15%	10%	
		Aggregate amount of premium does not exceed ₹ 2,50,000 in any of the tax year during the term of any of those policies issued on or after 01-4-2021		
<b>Keyman Insurance Policies</b>				
Any circumstances				Taxable as salary or business income or IFOS, as the case may be

### Gift [Sec. 92(2)(m)]

Cash	Immovable Property	Immovable Property at concessional value	Movable Asset	Movable Asset at concessional value
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Following receipts by any person shall be considered as his income:

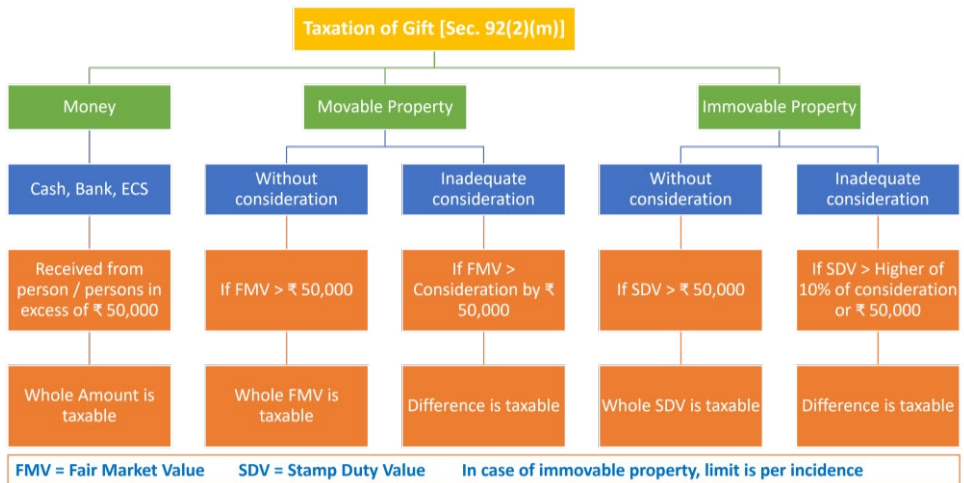
Category	Nature of Receipt	Conditions to be satisfied for considering income	Extent of Income	Remarks
<b>A</b>	Any sum of money	<p><b>a.</b> During the tax year, such person has received any sum of money (cash, cheque, draft, etc.) from one or more persons</p> <p><b>b.</b> Such sum is received without consideration</p> <p><b>c.</b> The aggregate value of such receipt during the tax year exceeds ₹ 50,000</p>	The whole of the aggregate value of such sum shall be considered as income of that tax year.	Aggregate amount of cash gift received during the period shall be considered.
<b>B</b>	Any immovable property	<p><b>a.</b> During the tax year, such person has</p>	The stamp duty value of such property shall be	The limit of ₹ 50,000/- is applicable

		<p>received immovable property</p> <p><b>b.</b> Such immovable property is received without consideration.</p> <p><b>c.</b> The stamp duty value of such property exceeds ₹ 50,000</p> <p><b>d.</b> Such asset is a capital asset in hands of recipient.</p>	considered as income of that tax year.	per incidence
<b>C</b>	Any immovable property	<p><b>a.</b> During the tax year, such person has received immovable property</p> <p><b>b.</b> Such asset is a capital asset in hands of recipient.</p> <p><b>c.</b> Such immovable property is received for consideration</p> <p><b>d.</b> Stamp duty value of such property exceeds such consideration</p> <p><b>e.</b> Such excess is more than the higher of the following:</p> <ul style="list-style-type: none"> <li>- ₹ 50,000; or</li> <li>- 10% of the consideration</li> </ul> <p><b>Note:</b> Where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken. This benefit is available only in a case where the amount of consideration or a part</p>	The stamp duty value of such property <i>Less</i> consideration paid, shall be considered as income of the tax year.	The limit (₹ 50,000/- or 10%) is applicable per incidence.

		thereof, has been paid by of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account or through other prescribed electronic modes <sup>3</sup> , on or before the date of the agreement for the transfer of such immovable property.		
<b>D</b>	Any movable property	<p><b>a.</b> During the tax year, such person has received movable property from one or more persons</p> <p><b>b.</b> Such movable property is received without consideration</p> <p><b>c.</b> The aggregate fair market value of such receipts during the tax year exceeds ₹ 50,000</p> <p><b>d.</b> Such asset is a capital asset in hands of recipient.</p>	The whole of the aggregate fair market value of such property shall be considered as income of the tax year.	Aggregate amount of gift received during the period shall be considered.
<b>E</b>	Any movable property	<p><b>a.</b> During the tax year, such person has received movable property from one or more persons</p> <p><b>b.</b> Such movable property is received for a consideration.</p> <p><b>c.</b> Such consideration is less than the aggregate fair market value of the</p>	The aggregate fair market value of such property <i>Less</i> consideration paid, shall be considered as income of the tax year.	Aggregate amount of gift received during the period shall be considered.

<sup>3</sup> As per Rule 48, prescribed electronic mode are Credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), BHIM (Bharat Interface for Money) Aadhar Pay and Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.ss

		property by an amount exceeding ₹ 50,000 <b>d.</b> Such asset is a capital asset in hands of recipient.		
<b><u>Taxpoint:</u></b>				
a) The limit of ₹ 50,000/- is also for per category. In other words, one may receive cash gift of ₹ 35,000 and gift in kind of ₹ 36,000 without attracting any tax.				
b) In case of dispute in stamp duty valuation: Refer section 78				



**Provisions Illustrated**

**Cash Gift**

- a. Mr. Anand received cash gift of ₹ 1,00,000 from his friend Mr. Lathi as on 10-10-2026  
₹ 1,00,000 shall be considered as income of Mr. Anand for the tax year 2026-27
- b. As on 12-11-2026, Mr. Ajay received cash gift of ₹ 25,000 each from his 3 friends (one of them is a non-resident)  
Since aggregate amount of gift exceeds ₹ 50,000, hence, entire amount of gift i.e., ₹ 75,000 shall be considered as income of Mr. Ajay for the tax year 2026-27

**Gift of immovable property**

- a. As on 10-01-2027, Mr. Pati received a piece of land (stamp duty value is ₹ 75,000) from his friend Mr. Raja without any consideration. Such land was acquired by Raja in 2001-02 for ₹ 10,000.

**Consequence of such gift in hands of Mr. Pati**

- 1. Since stamp duty value of the property exceeds ₹ 50,000, hence ₹ 75,000 shall be considered as income of Mr. Pati u/s 92(2)(m) for the tax year 2026-27.
- 2. Further, as per sec. 73, cost of acquisition of such land in hands of Mr. Pati shall be ₹ 75,000. Suppose as on 03-06-2030, Mr. Pati sold such land for ₹ 2,00,000 (stamp duty value as on

that date is ₹ 2,00,000), computation of capital gain in hands of Mr. Pati for tax year 2030-21 are as under:

Particulars	Amount
Full Value of Consideration	2,00,000
Less: Expenses on transfer	Nil
	2,00,000
Less: Cost of acquisition	75,000
<b>Long term capital gain</b>	<b>1,25,000</b>

**Consequence of such gift in hands of Mr. Raja**

Mr. Raja has transferred the capital asset by way of gift, which is not considered as transfer (sec. 70), hence no tax is required to be paid by him.

- b. On 10-07-2026, Dipak received a piece of land at Napasar from his friend Vikash (stamp duty value ₹ 46,000) as a gift. Such land was acquired by Mr. Vikash in 2001 for ₹ 5,000/-. Further, as on 01-11-2026, Dipak also received another piece of land at Bikaner (stamp duty value ₹ 30,000) without any consideration from Anil (acquired in 2025-26 for ₹ 10,000/-)

On 31-03-2027, Mr. Dipak sold land at Napasar to Kedar for ₹ 30,000/- and land at Bikaner to Nath for ₹ 90,000/-. Stamp duty value of such land as on the date of sale is ₹ 50,000/- (Napasar) and ₹ 85,000/- (Bikaner).

**Consequence of such gift in hands of Mr. Dipak**

- Applicability of sec. 92(2)(m)**: Nothing shall be taxable as stamp duty value (at the time of gift) of property at **each** occasion does not exceed ₹ 50,000/-.
- Cost of acquisition**: Since the value of the asset is not subject to income-tax u/s 92(2)(m), hence cost of acquisition of previous owner shall be considered as cost of acquisition of such assets in hands of Dipak. Consequently, cost of acquisition of land at Napasar is ₹ 5,000/- and that of land situated in Bikaner is ₹ 10,000/-
- Period of Holding**: Period of holding of previous owner shall also be included in the holding period of Dipak.
- Computation of capital gain on transfer**: Computation of capital gain in hands of Dipak are as under:

Particulars	Land at	
	Napasar	Bikaner
<u>Sale Consideration</u> (Being higher of the following – Sec. 78)		
- Actual Consideration	30,000	90,000
- Stamp duty value	50,000	85,000
	50,000	90,000
Less: Expenses on transfer	Nil	Nil
	50,000	90,000

Less: Cost of acquisition	5,000	-
Less: Cost of acquisition	-	10,000
<b>Long term capital gain</b>	<b>45,000</b>	<b>-</b>
<b>Short term capital gain</b>	<b>-</b>	<b>80,000</b>

**Consequence of such gift in hands of Mr. Vikash and Mr. Anil**

Mr. Vikash and Mr. Anil has transferred the capital asset by way of gift, which is not considered as transfer (sec. 70), hence no tax is required to be paid by them.

**Acquisition of immovable property at concessional amount**

- a. As on 10-01-2027, Tipu purchased a piece of land (stamp duty value is ₹ 75,000) from his friend Mr. Uday against consideration of ₹ 30,000. Mr. Uday acquired such land for ₹ 25,000 in F.Y. 2007-08. On 10-04-2028, Tipu sold such land for ₹ 1,75,000 (stamp duty value ₹ 1,60,000/-).

**Consequences in hands of Mr. Tipu**

- Applicability of sec. 92(2)(m)**: Since the difference between stamp duty value of the land (as on 10-01-2027) and actual consideration does not exceed ₹ 50,000, hence, the provision of sec. 92(2)(m) is not applicable.
- Cost of acquisition**: ₹ 30,000 shall be considered as cost of acquisition of such land in hands of Tipu.
- Capital Gain**: Computation of Capital gain for tax year 2028-29 are as under

Particulars	Amount
Sale Consideration	1,75,000
Less: Expenses on transfer	Nil
	1,75,000
Less: Cost of acquisition	30,000
<b>Short term capital gain<sup>#</sup></b>	<b>1,45,000</b>

<sup>#</sup> It is to be noted that this is not the case of gift, hence period of holding commenced from 10-01-2027.

**Consequences in hands of Mr. Uday**

Computation of capital gain in hands of Mr. Uday for tax year 2026-27

Particulars	Amount
Sale Consideration (Higher of ₹ 75,000 and ₹ 30,000 – Sec. 78)	75,000
Less: Expenses on transfer	Nil
	75,000
Less: Cost of acquisition	25,000
<b>Long term capital gain</b>	<b>50,000</b>

- b. As on 10-02-2027, Mundhra Services Pvt Ltd purchased a piece of land (stamp duty value is ₹ 7,50,000) from one of the friend, Mita, of the Director, against consideration of ₹ 3,90,000. Mita acquired such land for ₹ 25,000 in 2000 (Fair Market Value as on 1-4-2001 was ₹ 32,000). On 10-04-2028, the company sold such land for ₹ 10,75,000 (stamp duty value ₹ 12,50,000/-).

**Consequences in hands of Mundhra Services Pvt Ltd**

1. **Applicability of sec. 92(2)(m)**: Since the difference between stamp duty value of the land (as on 10-02-2027) and actual consideration exceeds ₹ 50,000, hence, the provision of sec. 92(2)(m) is applicable. Consequently, ₹ 3,60,000/- shall be considered as 'Income from Other Sources' in hands of the company in the tax year 2026-27.
2. **Cost of acquisition**: ₹ 7,50,000 shall be considered as cost of acquisition of such land in hands of the company.
3. **Capital Gain**: Computation of Capital gain for tax year 2028-29 are as under

Particulars	Amount
Sale Consideration (Higher of ₹ 10,75,000 and ₹ 12,50,000 – Sec. 78)	12,50,000
Less: Expenses on transfer	Nil
	12,50,000
Less: Cost of acquisition	7,50,000
<b>Short term capital gain<sup>#</sup></b>	<b>5,00,000</b>

<sup>#</sup> It is to be noted that this is not the case of gift, hence period of holding commenced from 10-02-2027.

**Consequences in hands of Mita**

Computation of capital gain in hands of Mita for tax year 2026-27

Particulars	Amount
Sale Consideration (Higher of ₹ 7,50,000 and ₹ 3,90,000 – Sec. 78)	7,50,000
Less: Expenses on transfer	Nil
	7,50,000
Less: Cost of acquisition	32,000
<b>Long term capital gain</b>	<b>7,18,000</b>

- c. On 10-10-2026, Suresh purchased a piece of land from his friend Anuj (stamp duty value ₹ 46,000) for ₹ 30,000. Further, as on 01-11-2026, he also purchased house property (stamp duty value ₹ 1,50,000) from Ajay for ₹ 1,00,000. Further, as on 01-01-2027, his another friend Jitu give him a house property without any consideration (stamp duty value ₹ 35,000). Jitu purchased such property on 10-04-2002 for ₹ 5,000/-

**Consequences in hands of Suresh**

1. **Applicability of sec. 92(2)(m)**: Nothing shall be taxable as the difference between stamp duty value of property and actual consideration at **each** occasion does not exceed ₹ 50,000/-

2. **Cost of acquisition and period of holding:** Since the value of the asset is not subject to income-tax u/s 92(2)(m), hence cost of acquisition and period of holding thereof are as under:

Property	Cost of acquisition	Period of holding commenced from
Land purchased from Anuj	₹ 30,000	10-10-2026
House purchased from Ajay	₹ 1,00,000	01-11-2026
House received from Jitu	Cost of previous owner i.e. ₹ 5,000	10-04-2003

**Consequences in hands of Anuj, Ajay and Jitu**

- **Anuj and Ajay:** Capital gain shall be computed. Provision of sec. 78 is applicable. Note that unlike sec. 92(2)(m), sec. 78 does not have minimum limit of ₹ 50,000
- **Jitu:** No treatment

- d. On 10-10-2026, Sonam purchased a piece of land from her friend Shweta (stamp duty value ₹ 12,54,000) for ₹ 12,00,000.

**Consequences in hands of Sonam**

1. **Applicability of sec. 92(2)(m):** Since the difference between actual consideration and stamp duty value does not exceed 10% of actual consideration (being ₹ 1,20,000 i.e., 10% of ₹ 12,00,000), hence nothing shall be taxable u/s 92(2)(m) even though the difference between actual consideration and stamp duty value exceeds ₹ 50,000.
2. **Cost of acquisition:** ₹ 12,00,000

**Consequences in hands of Shweta**

Similarly, ₹ 12,00,000 being actual consideration shall be considered as full value of consideration.

- e. On 10-10-2026, Priya purchased a piece of land from her friend Monica (stamp duty value ₹ 4,45,000) for ₹ 4,00,000.

**Consequences in hands of Priya**

1. **Applicability of sec. 92(2)(m):** Nothing shall be taxable as the difference between stamp duty value of the property and actual consideration does not exceed ₹ 50,000/-.
2. **Cost of acquisition:** ₹ 4,00,000

**Consequences in hands of Monica**

₹ 4,45,000 being stamp duty value shall be considered as full value of consideration as stamp duty value exceeds 110% of actual consideration.

- Actual consideration ₹ 4,00,000
- 110% of above ₹ 4,40,000
- Stamp duty value ₹ 4,45,000

Provision of sec. 78 do not have criteria like the minimum difference should be ₹ 50,000.

**Gift of movable property**

- a. As on 10-01-2027, Narendra received gold necklace (fair value is ₹ 1,85,000) from Vivek without any consideration.

**Consequences in hands of Narendra**

1. **Applicability of sec. 92(2)(m)**: Since fair market value of gift exceeds ₹ 50,000, hence the provision is applicable and consequently ₹ 1,85,000 shall be taxable as income from other sources in tax year 2026-27.
2. **Cost of acquisition of such necklace**: ₹ 1,85,000/- being the value taken for computing income u/s 92(2)(m)
3. **Period of holding**: Period of holding will be commenced from 10-01-2027.

**Consequences in hands of Vivek**

Gift is not considered as transfer; hence nothing shall be taxable in his hands.

- b. On 10-10-2026, Mohan received shares from his friend Uttam (fair value ₹ 36,000 and not acquired through ESOP) as a gift. Further, as on 01-11-2026, he also received gold chain (fair value ₹ 30,000) without any consideration from another friend.

**Consequences in hands of Mohan**

1. **Applicability of sec. 92(2)(m)**: Since aggregate fair market value of both gifts exceeds ₹ 50,000, hence the provision is applicable and consequently ₹ 66,000 shall be taxable as income from other sources in tax year 2026-27.  
It is to be noted that in case of immovable property, limit of ₹ 50,000/- is applicable on per incidence. However, in case of movable property (and cash), the limit of ₹ 50,000/- is applicable for all gift received during the tax year.
2. **Cost of acquisition of such necklace**: ₹ 36,000/- (for shares) and ₹ 30,000 (for gold chain) being the value taken for computing income u/s 92(2)(m)
3. **Period of holding**: Period of holding will commence from 10-10-2026 (for shares) and 01-11-2026 (for gold chain)

**Consequences in hands of Friends**

Gift is not considered as transfer, hence nothing shall be taxable in their hands.

**Acquisition of movable property at concessional amount**

- a. On 10-10-2026, Kamal purchased jewellery from Kishore (fair value ₹ 46,000) for ₹ 30,000. Kishore acquired such jewellery in 10-04-2026 for ₹ 25,000

**Consequences in hands of Kamal**

1. **Applicability of sec. 92(2)(m)**: Since fair market value of jewellery does not exceed ₹ 50,000, hence the provision is not applicable.
2. **Cost of acquisition of such necklace**: ₹ 30,000/- (for jewellery) being the actual consideration.
3. **Period of holding**: Period of holding will commence from 10-10-2026

**Consequences in hands of Kishore:** Computation of capital gain in hands of Kishore are as under:

Particulars	Kishore
Sale Consideration [ <sup>#</sup> Sec. 78 is not applicable in case of movable property]	30,000 <sup>#</sup>
Less: Expenses on transfer	Nil
	30,000
Less: Cost of acquisition	25,000
<b>Short term capital gain</b>	<b>5,000</b>

- b. On 10-10-2026, Janak purchased jewellery from his friend Giri (fair value ₹ 66,000) for ₹ 30,000. Further, as on 01-11-2026, he also purchased silver utensil (fair value ₹ 1,00,000) from another friend for ₹ 75,000.

**Consequences in hands of Janak**

**Applicability of sec. 92(2)(m):** The difference between fair market value and actual consideration are as follow:

Particulars	Amount	Amount
Fair Market Value of		
- Jewellery		66,000
- Silver utensil		1,00,000
		1,66,000
Less: Actual consideration		
- Jewellery	30,000	
- Silver utensil	75,000	1,05,000
Difference between fair market value and actual consideration		61,000
The aforesaid value exceeds ₹ 50,000 hence, sec. 92(2)(m) is applicable, consequently ₹ 61,000 shall be taxable		
Cost of acquisition of such assets shall be fair market value considered for aforesaid computation.		

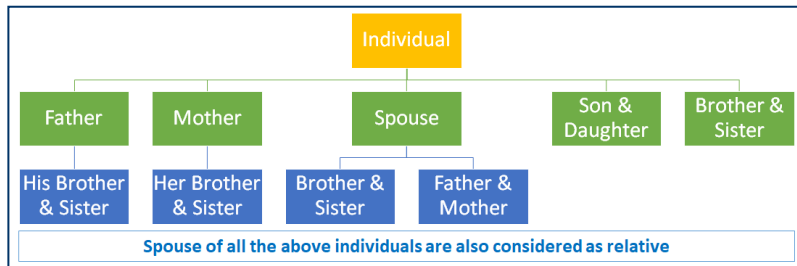
**Consequences in hands of Friends**

Capital gain shall be computed. However, it is to be noted that sec. 78 is not applicable on movable asset

**Exceptions**

This section shall not apply to any sum of money or any property received

1. from any relative<sup>#</sup>.  
<sup>#</sup> Relative here means—  
***In case of an***



***individual***

- i. spouse of the individual;
- ii. brother or sister of the individual;
- iii. brother or sister of the spouse of the individual;
- iv. brother or sister of either of the parents of the individual;
- v. any lineal ascendant (maternal or paternal) or descendant of the individual;
- vi. any lineal ascendant (maternal or paternal) or descendant of the spouse of the individual;
- vii. spouse of the person referred to in clauses (ii) to (vi).

**In case of HUF:** Any member thereof

Example: Relatives means: Suppose Mr. Vikash is an assessee

1. Wife of Mr. Vikash.
  2. Brother or sister of Mr. Vikash.
  3. Brother or sister of wife of Mr. Vikash.
  4. Brother or sister of father of Mr. Vikash. Brother or sister of mother of Mr. Vikash.
  5. Great grandfather, grandfather and father of Mr. Vikash.
  6. Son, grandson and great grandson of Mr. Vikash.
  7. Great grandfather, grandfather and father of wife of Mr. Vikash.
  8. a) Brother's wife or sister's husband of Mr. Vikash.  
 b) Brother's wife or sister's husband of wife of Mr. Vikash.  
 c) Brother's wife or sister's husband of father of Mr. Vikash.  
 d) Brother's wife or sister's husband of mother of Mr. Vikash.  
 e) Great grandmother, grandmother and mother of Mr. Vikash.  
 f) Son's wife, great grandson's wife, great grandson's wife of Mr. Vikash.  
 g) Great grandmother, grandmother, and mother of wife of Mr. Vikash.
2. on the occasion of the marriage of the individual (whether gift is received from relative or outsiders).



3. under a will or by way of inheritance.
4. in contemplation of death of the payer or donor.
5. from local authority
6. from or by any registered non-profit organization [as defined u/s 355(g)], provided it is not received by any person referred to in sec. 355(h).
7. from an individual by a trust created or established solely for the benefit of relative of the individual.
8. by way of distribution at the time of total or partial partition covered u/s 70(1)(a)
9. by way of transactions not regarded as transfer u/s 70(1)(c), (d), (e), (f), (g), (i), (j), (k), (l), (n), (o), (t), (u), (v) or (w).
10. from such class of persons and subject to such conditions, as may be prescribed.

**Other Points**

1. *Fair market value* of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;
2. *Property* means the following **capital asset** of the assessee, namely

<b>a.</b> Immovable property being land or building or both		<b>b.</b> Shares & securities	
<b>c.</b> Archaeological collections	<b>d.</b> Paintings	<b>e.</b> Jewellery	<b>f.</b> Drawings
<b>g.</b> Virtual digital assets	<b>h.</b> Any work of art	<b>i.</b> Bullion	<b>j.</b> Sculptures

**Taxpoint:**

- *Property does not include furniture, clothes, etc. (provided it does not fall in the definition of Jewellery).*
- *If an assessee receives aforesaid assets without consideration (or against inadequate consideration in some cases) as stock in trade, the provision of this section shall not apply.*

**Specific disallowance [Sec. 94]**

Following expenditures shall not be deducted from any income under this head:

1. Any personal expenses of the assessee.
2. Any interest which is payable outside India on which tax has not been paid or deducted at source.
3. Any salary payable outside India on which tax has not been paid or deducted at source
4. The provisions of sec. 29, 35(b)(i), and 36 shall apply in computing the income chargeable under the head “Income from other sources” as they apply in computing the income chargeable under the head “Profits and gains of business or profession

5. For an assessee, being a foreign company, the provisions of sec. 59 shall apply in computing the income chargeable under the head “Income from other sources”, as they apply in computing the income chargeable under the head “Profits and gains of business or profession
6. In computing the income from winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, or from gambling or betting of any form or nature, no deduction for any expenditure or allowance related to such income shall be allowed under this Act.

**Note:** Above provision shall not apply in computing the income of an assessee, being the owner of horses maintained by him for running in horse races, from the activity of owning and maintaining such horses.

“Horse race” means a horse race upon which wagering or betting may be lawfully made

### Profit Chargeable to Tax [Sec. 95]

Sec. 95 provides that where -

- a) An allowance or deduction has been allowed for any year in respect of loss, expenditure or trading liability incurred by the assessee; and
  - b) Subsequently, any amount is obtained, as revocation of such loss, expenditure or remission of liability, whether in cash or in any other manner, during any tax year,
- then such amount received or amount remitted shall be charged to tax.

**Note:** Above provision holds good even in case of succession or inheritance.

### Section & Rule Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Income from Other Sources	56	92
Deduction	57	93
Amount Not Deductible	58	94
Profit Chargeable to Tax	59	95
Prescribed class of person for sec. 92(2)(m)	Rule 11UAC	Rule 58
Computation of income on receipt of LIC proceeds	Rule 11UACA	Rule 59

## CLUBBING OF INCOME

Clubbing of income refers to the inclusion of another person's income into the taxpayer's total income for tax purposes. This can occur in various situations under tax laws, primarily to prevent tax evasion through income splitting or transfers. Generally, an assessee is taxed on income accruing to him only and he is not liable to tax for income of another person. However, there are certain exceptions to the above rule (mentioned u/s 96 to 99). Various provisions relating to clubbing are enumerated here in below:

Section	Particulars						
96	Where an income is transferred without transferring the asset yielding such income, then income so transferred shall be clubbed in the hands of the transferor.						
97	<p>If an assessee transfers an asset under a revocable transfer, then income generated from such asset, shall be clubbed in the hands of the transferor. <i>Revocable transfer</i> means, there is any provision for the retransfer of any part or whole of the income/assets to the transferor or gives the transferor a right to re-assume power over any part or whole of the income/ assets.</p> <p><u>Exceptions:</u> The provision shall not apply to an income arising to a person by virtue of:</p> <p>a) A transfer by way of creation of a trust which is irrevocable during the lifetime of the beneficiary;</p> <p>b) Any transfer which is irrevocable during the lifetime of the transferee; or</p> <p>In any case, the transferor must not derive any benefit (directly or indirectly) from such income.</p> <p><b>Taxpoint:</b> Income, in any of the above exceptional case, shall be taxable as under -</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr style="background-color: #333; color: white;"> <th style="text-align: center;">Situation</th> <th style="text-align: center;">Taxable in hands of</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">When the power to revoke the transfer arises (whether such power is exercised or not)</td> <td style="text-align: center; padding: 5px;">Transferor</td> </tr> <tr> <td style="padding: 5px;">When the power to revoke the transfer does not arise</td> <td style="text-align: center; padding: 5px;">Transferee</td> </tr> </tbody> </table>	Situation	Taxable in hands of	When the power to revoke the transfer arises (whether such power is exercised or not)	Transferor	When the power to revoke the transfer does not arise	Transferee
Situation	Taxable in hands of						
When the power to revoke the transfer arises (whether such power is exercised or not)	Transferor						
When the power to revoke the transfer does not arise	Transferee						
99(1)(a)(i)	<p>Salary, commission, fees or any other remuneration to the spouse from a concern in which assessee has substantial interest shall be clubbed in hands of such assessee</p> <p>An individual shall be deemed to have a <i>substantial interest</i> in a concern:</p> <p>A. in case where the concern is a company, if atleast 20% equity shares of the company are, at any time during the tax year, owned</p>						

	<p>beneficially by the individual or jointly with one or more of his relatives;</p> <p>B. in any other case, if such person is entitled, or such person and one or more of his relatives are jointly entitled, to at least 20% of the profits of such concern at any time during the tax year</p> <p><i>Relative</i>, in relation to an individual, means the husband, wife, brother, sister or any lineal ascendant (maternal as well as paternal) or descendant of that individual</p> <p><b><i>Exception:</i></b></p> <ul style="list-style-type: none"> <li>➤ If income to spouse generated due to his/her technical or professional qualification, skill etc. The term technical or professional qualification must be construed in a liberal manner as the term has not been defined in the Act. It does not necessarily relate to technical or professional qualification acquired by obtaining a certificate, diploma or degree or in any other form, from a recognised body like University or Institute. It can be treated as fitness to do a job or to undertake an occupation requiring intellectual skill and also includes technicality generated through experience, skill etc. Technical qualification includes specialization in a particular subject (e.g. accountancy, management, commerce, science, technology etc.).</li> <li>➤ When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification, remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher. Where such income is once included in the total income of either of the spouse, then such income arising in any subsequent years cannot be included in the total income of the other spouse unless the Assessing Officer is satisfied that it is necessary to do so. However, Assessing Officer will do so only after giving to the other spouse an opportunity of being heard.</li> </ul> <p><b><i>Taxpoint:</i></b> Such Income shall be first computed (allowing all deductions from the respective income) in the hands of recipient and thereafter net income shall be clubbed in the hands of the other spouse</p>
<p><b>99(1)(a)(ii)</b></p>	<p>In computing the total income of an individual [subject to the provisions of sec. 25(a) (i.e., deemed owner of house property)], income arising from assets transferred to spouse without adequate consideration, shall be included in the income of that individual.</p> <p><b><i>Taxpoint</i></b></p> <ul style="list-style-type: none"> <li>➤ In the following cases clubbing provision shall not be attracted on transfer of property to spouse -             <ol style="list-style-type: none"> <li>a. When such transfer is for adequate consideration; or</li> </ol> </li> </ul>

	<p>b. The transfer is under an agreement to live apart; or</p> <p>c. Where the asset transferred is house property (as such transfer will be governed by sec. 25)</p> <p>➤ The relationship of husband and wife must subsist on the date of transfer of assets as well as on the date of accrual of income i.e. no clubbing provision shall be attracted if –</p> <ul style="list-style-type: none"> <li>- transfer is made before marriage; or</li> <li>- on the date of accrual of income, transferee is not the spouse of transferor</li> </ul> <p>➤ <b>Change of form of asset:</b> The asset so transferred need not remain in its original form. E.g., Mr. X transferred to Mrs. X securities worth ₹ 5,00,000. Mrs. X exchanged such securities for a house property. Income from such property shall also be liable to clubbing u/s 99(1)(a)(ii).</p> <p>➤ <b>Accretion of asset:</b> Income arising to the transferee from the accretion of such property shall not be clubbed in the total income of the transferor.</p> <p>➤ <b>Income on Income:</b> Income arising to the transferee from the accumulated income of such property is not to be clubbed</p> <p>➤ <b>Asset invested in the business:</b> If assets so transferred, is invested in business then tax treatment shall be as under:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: black; color: white;"> <th style="text-align: center;">Type of business</th> <th style="text-align: center;">Income to be clubbed</th> </tr> </thead> <tbody> <tr> <td style="background-color: #cccccc;"><b>Proprietary</b></td> <td style="background-color: #cccccc;"> <math>A \times (B/C)</math>                      Where,                      A = Income of such business                      B = Value of such assets as on the 1st day of the tax year                      C = Total investment in the business by the transferee as on the same day                 </td> </tr> <tr> <td><b>Partnership</b></td> <td> <math>X = (Y/Z)</math>                      X = Interest on capital                      Y = Value of such assets as on the 1st day of the tax year                      Z = Total investment in the firm by the transferee as on the same day                 </td> </tr> </tbody> </table>	Type of business	Income to be clubbed	<b>Proprietary</b>	$A \times (B/C)$ Where, A = Income of such business B = Value of such assets as on the 1st day of the tax year C = Total investment in the business by the transferee as on the same day	<b>Partnership</b>	$X = (Y/Z)$ X = Interest on capital Y = Value of such assets as on the 1st day of the tax year Z = Total investment in the firm by the transferee as on the same day
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<b>99(1)(b)</b>	<p>Income arising (directly or indirectly) from assets transferred (on or after 01-06-1973) to son's wife, without adequate consideration, shall be included in income of transferor.</p> <p><b><u>Taxpoint:</u></b> All Taxpoint given u/s 99(1)(a)(ii) shall applicable</p>				
<b>99(1)(c)</b>	<p>Income of a minor child shall be clubbed with income of the parent whose total income (excluding this income) is higher.</p> <p>Once clubbing is made with either parent, then in any subsequent years, clubbing shall be made with the same parent, unless the AO is satisfied.</p> <p>However, if marital relationships do not subsist, income shall be clubbed with that parent who maintains the minor child.</p> <p><b><u>Exceptions:</u></b> In following cases, clubbing is not applicable:</p> <ol style="list-style-type: none"> <li>a. Income arises or accrues to the minor child due to any manual work or any activity involving application of his skill, talent, or specialized knowledge and experience; or</li> <li>b. The minor child is suffering from any disability of nature specified u/s 154.</li> </ol> <p><b><u>Exemption [Schedule III Table S. No. 17]:</u></b> Lower of a) ₹ 1,500 per child; or b) Income so clubbed relating to that child.</p> <p>Such exemption is available only if assessee has opted for old tax regime.</p>				
<b>99(1)(d)</b>	<p>In case an asset is transferred to other person or an association of persons, otherwise than for adequate consideration, for immediate or deferred benefit of spouse or son's wife (in son's wife case, it should be transferred after 31-05-1973), then income on asset so transferred shall be clubbed in the hands of the transferor (to the extent income from such asset is for the immediate or deferred benefit of spouse or son's wife).</p>				
<b>99(3)</b>	<p>Where an individual has converted<sup>1</sup> his property into property of HUF, for inadequate consideration, then income derived from such converted property shall be clubbed with individual as under:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #d3d3d3; width: 20%;">Before partition</td> <td>The entire income from such property</td> </tr> <tr> <td style="background-color: #d3d3d3;">After partition</td> <td>Income from the assets attributable to the spouse of transferor.</td> </tr> </table>	Before partition	The entire income from such property	After partition	Income from the assets attributable to the spouse of transferor.
Before partition	The entire income from such property				
After partition	Income from the assets attributable to the spouse of transferor.				

<sup>1</sup> Such conversion can be made by: a) the act of impressing such separate property with the character of property belonging to the family; or b) throwing it into the common stock of the family

<b>100</b>	After application of provisions of clubbing (on transfer of property without adequate consideration as discussed above in several provisions), income is taxable and tax liability arises in the hands of the transferor. But sec. 100 empowers the tax authorities to serve demand notice (in respect of tax on clubbed income) upon transferee.
<b>Notes</b>	<ul style="list-style-type: none"> <li>● Clubbing of income includes clubbing of negative income</li> <li>● The credit of TDS shall be given to the person in whose hands the income is taxable.</li> <li>● Income shall be clubbed even when form of the transferred asset is changed.</li> <li>● Income arising from the accretion of such property is not to be clubbed.</li> <li>● Income on income is not to be clubbed.</li> <li>● Income shall be, first, computed in hands of recipient &amp; then clubbing shall be made head wise.</li> <li>● If the clubbed income is eligible for deduction u/s 123 to 154, then such deduction shall be allowed to the assessee in whose hands such income is clubbed.</li> </ul>



# SET OFF AND CARRY FORWARD

## Inter Source adjustment (Intra-Head adjustment) [Sec. 108]

When the net result of any source of income is loss, it can be set off against income from any other source under the same head, subject to the following exceptions –

- a) **Long term capital loss** can be set off only against long term capital gain. However, short-term capital loss can be set off against short term as well as long term capital gains.
- b) **Loss of a speculation business** can be set off only against the profits of a speculation business, under the head ‘Profits and gains of business or profession’. However, loss from a non-speculative business can also be set off against income from speculation business
- c) **Loss of a specified business covered u/s 46** can be set off only against the income of any specified business. However, loss from a non-specified business can be set off against income from specified business.
- d) **Loss incurred in activity of owning and maintaining race horses** can be set off against income from such activity only

**Taxpoint:** Above provisions provide restriction on losses, however income from aforesaid source (i.e. a to d) is available for setting off any loss from any other source under the same head.

- e) **Loss from transfer of virtual digital asset** cannot be adjusted against any income.
- f) **Loss from a source, income of which is exempt**, cannot be set off against any income.
- g) **No loss can be set off against -**
  - Winning from lotteries, crossword puzzles, races, card games, gambling, etc.
  - Unexplained income, investment, money, etc. chargeable u/s 102 / 103 / 104 / 105 / 106 [Sec. 195]
  - Income on transfer of virtual digital assets [Sec. 194]

### **Taxpoint**

In short,

Head of Income	Set-Off Rules
Capital Gains	STCL ↔ STCG/LTCG, LTCL ↔ LTCG only
Business Income (Speculative)	Speculative loss ↔ speculative income only
Business Income (Non-Speculative)	Non-Speculative loss ↔ Speculative / Non-speculative business income
Specified Business (u/s 46)	Only from other specified businesses

Owning & Maintaining Race-Horses	Only from the same activity income
Exempt Income	No set-off allowed
Lottery, betting, gambling	No loss can be set off against such income
Unexplained Income	No loss can be set off against such income
Virtual Digital Asset	<ul style="list-style-type: none"> <li>➤ No loss can be set off against such income</li> <li>➤ Loss from such transaction cannot be adjusted with any income</li> </ul>

### Inter head adjustment [Sec. 109]

Where in respect of any tax year, the net result of any head of income is a loss, the same can be set off against the income under any other heads for the same tax year, subject to the following exceptions:

- a) **Capital gains**: Loss under the head ‘Capital gains’ cannot be set off against income under any other head. However, loss under any other head, e.g. business loss, shall be allowed to be set off against income under the head ‘Capital gains’
- b) **Loss of a speculation business**: Loss under the head ‘Profits and gains of business or profession’ due to speculation transaction cannot be set off against any other income except profits of speculation transaction. However, loss under any other head, e.g. loss from house property, shall be allowed to be set off against income of a speculation business.
- c) **Loss of a specified business covered u/s 46** cannot be set off against income taxable under other head. However, loss from other heads can be set off against income from specified business.
- d) **Loss from activity of owning and maintaining race-horses**: Loss under the head ‘Income from other sources’ due to activity of owning and maintaining race-horses cannot be set off against any other income except profit from activity of owning and maintaining race-horses. However, loss under any other head, e.g. business loss, shall be allowed to be set off against income from activity of owning and maintaining race-horses.

**Taxpoint**: Above provisions provides restriction on losses, however income from aforesaid source (i.e. a to d) is available for setting off any loss from any other head of income.

- e) **Loss under the head ‘Income from house property’**: Loss in excess of ₹ 2,00,000 under the head ‘Income from house property’ cannot be set off with income under other heads of income.

However, if assessee is under new tax regime, loss under the head ‘Income from House Property’ cannot be adjusted with any income under other heads.

- f) **Loss under the head Profits and Gains of Business or Profession**: Loss under the head "Profits and gains of business or profession" cannot be set off from income under the head “Salaries”.

- g) Loss from a source, income of which is exempt:** Such loss cannot be set off against any taxable income.
- h) Income from winning from lotteries, etc.:** Any loss cannot be set off against
- Winning from lotteries, crossword puzzles, races, card games, gambling, etc.
  - Unexplained income, investment, money, etc. chargeable u/s 102 / 103 / 104 / 105 / 106 [Sec. 195]
  - Undisclosed income of a tax year, consequent to search conducted u/s 247 or requisition u/s 248 or a survey conducted u/s 253 [except survey u/s 253(4)]
  - Income on transfer of virtual digital assets [Sec. 194]

### **Taxpoint**

In short,

Nature of Loss	Set-off Allowed Against
Capital Loss	Not against other heads
House Property	Any head (old regime – max ₹ 2 Lakhs) Under the new tax regime, no adjustment with income under the other head
Unabsorbed Depreciation	Any head except Salaries
Speculative loss	Not against other heads
Non-speculative business loss	Any head except Salaries
Owning & maintaining race-horses	Not allowed against other heads
Lottery / Gambling / Unexplained	No set-off allowed
Virtual Digital Asset	<ul style="list-style-type: none"> <li>➤ No loss can be set off against such income</li> <li>➤ Loss from such transaction cannot be adjusted with any income</li> </ul>

### **General notes**

- **Sec. 108 -vs.- Sec. 109:** First, intra head set-off shall be made, thereafter inter head set-off shall be made. In other words, sec. 109 will be applicable after application of sec. 108.
- **Priority of set off u/s 109:** The Act does not lay any priority relating to set off of losses, hence, losses which cannot be carried forward should be adjusted first.
- **Mandatory:** Assessee is bound to follow sec. 108 and 109, there is no choice or option whether to set off the loss or not. Even partial set off is not permissible when entire loss can otherwise be set off.
- **Set-off of clubbed income:** From clubbed income, one can set off the losses.

## Carry Forward of Loss

In case where the income of tax year is insufficient to set off the losses of the year then such losses (which could not be set off) can be carried forward to subsequent tax year(s) for set off against income of such subsequent year(s). However, all losses cannot be carried forward, e.g. losses under the head 'Income from other sources' (other than loss from 'Activity of owning and maintaining race-horses') cannot be carried forward.

Following losses can be carried forward:

1. Loss under the head 'Income from house property' [Sec. 110]
2. Loss under the head 'Capital gains'. [Sec. 111]
3. Loss under head "Profits and gains of business or profession" other than speculation loss [Sec. 112]
4. Loss from speculation business [Sec. 113]
5. Loss from specified business covered u/s 46 [Sec. 114]
6. Loss from 'Activity of owning and maintaining race horses' [Sec. 115]

## Loss under the head 'Income from House Property' [Sec. 110]

Loss under the head 'Income from house property' can be carried forward and can be set off against income under the same head only. However, under new tax regime, loss from house property cannot be carried forward.

**Taxpoint:** Under new tax regime, loss under the head income from house property cannot be set off under any other head. Carry forward of losses is also not allowed.

**Period for which carry-forward shall be allowed:** 8 tax years immediately succeeding the tax year in which such loss is first computed.

**Filing of return:** Loss under the head 'Income from house property' can be carried forward even a belated return is filed.

## Carry forward and set off of capital loss [Sec. 111]

Losses under the head 'Capital gains' can be carried forward and set off against income under the same head, subject to the restriction that the loss on transfer of long-term capital assets can be set off only against any gain on transfer of long term capital asset.

**Taxpoint:** *Loss on transfer of short-term capital assets can be set off against any income under the head capital gain (whether short-term or long-term).*

**Period for which carry-forward shall be allowed:** 8 tax years immediately succeeding the tax year in which such loss is first computed.

**Filing of return:** As per sec. 121, the loss cannot be carried forward unless the return is filed within the time limit provided u/s 263(1) [subject to the exception where delay is condoned].

## **Carry forward & set off of business loss other than speculation loss [Sec. 112]**

Loss under the head “Profits and gains of business or profession” (other than speculation loss) can be carried forward and set off against income under the same head.

**Taxpoint:** For this purpose business profit includes profits derived from a business activity but assessable under the heads other than ‘Profit and gains of business or profession’, e.g. Dividend income when shares are held as stock, though taxable under the head ‘Income from other sources’ but business loss can be set off against such income.

**Period for which carry-forward shall be allowed:** 8 tax years immediately succeeding the tax year in which such loss is first computed.

### **Taxpoint**

1. **Business need not be continued:** The business losses can be carried forward, even the business in respect of which the loss was originally computed, is not carried on during the tax year.
2. **Filing of return in time:** As per sec. 121, the loss cannot be carried forward unless the return is filed within the time limit provided u/s 263(1) [subject to the exception where delay is condoned].
3. **Treatment of unabsorbed depreciation, etc.:** Unabsorbed depreciation, unabsorbed capital expenditure on scientific research and unabsorbed capital expenditure on family planning are not covered by sec. 112 or 113. Such losses can be carried forward for any number of years.
4. **Order of set off:** In case of insufficient profit, losses shall be set off in the following order:
  - (a) Current year’s depreciation, capital expenditure on scientific research and capital expenditure on family planning;
  - (b) Brought forward business or profession losses;
  - (c) Unabsorbed depreciation, unabsorbed expenditure on family planning and unabsorbed capital expenditure on scientific research
5. **Loss from specified business covered u/s 46** (i.e, cold chain facility, cross-country natural gas pipeline, etc.) shall be adjusted only from profit from specified business [Further refer sec. 114].
6. **Assessee must be same who incurred the loss:** Business losses can be carried forward and set off against the profits of the assessee who incurred the loss i.e. assessee must be same to carry forward the loss. However, this rule has the following exceptions –
  - a) **Amalgamation:** Business losses and unabsorbed depreciation of an amalgamating company can be set-off against the income of the amalgamated company
  - b) **Succession:** Business losses and unabsorbed depreciation of a proprietary concern or a partnership firm or a specified company succeeded by a company or limited liability partnership can be carried forward by succeeded company or limited liability partnership, subject to certain conditions.
  - c) **Inheritance:** Where the assessee acquires the business through inheritance, losses of such business may be carried forward for balance number of years.

d) **Demerger:** In case of demerger, loss of demerged company shall be carried forward and set-off by resulting company.

**Note:** In the following case, losses cannot be carried forward

- i. Business, of an HUF where the business of the HUF is taken over by the Karta of HUF;
- ii. Proprietorship business taken over by a firm in which proprietor is one of the partner;
- iii. A firm being succeeded by another firm;
- iv. A firm where the business of the firm is taken over by one of the partner of the firm,

### Set off and Carry forward of unabsorbed depreciation

Set off and carry forward of unabsorbed depreciation shall be governed by sec. 33(11) and not by sec. 112. Depreciation, which could not be fully absorbed in any tax year, owing to:

- there being no profits or gains chargeable for that tax year; or
- the profits or gains chargeable being less than the amount of depreciation.

**Tax treatment:** Allowance or the part of the allowance of depreciation which remains unabsorbed shall be (subject to sec. 112 and sec. 113) added to the amount of the depreciation for the following tax year and deemed to be the depreciation-allowance for that tax year, and so on for the succeeding tax years.

**Taxpoint:** *Unabsorbed depreciation shall be allowed to be carried forward for any number of years and such carried forward unabsorbed depreciation may be set off against any income, other than -*

- *Income under the head "Salaries"*
- *Winning from lotteries, cross word puzzles, etc.*
- *Undisclosed income, etc.*
- *Income on transfer of virtual digital asset;*
- *Undisclosed income of a tax year, consequent to search conducted u/s 247 or requisition u/s 248 or a survey conducted u/s 253 [except survey u/s 253(4)]*

#### Notes

1. **Continuation of business:** Unabsorbed depreciation can be carried forward even if the business in respect of which the loss was originally computed, is not carried on during the tax year.
2. **Filing of return:** Unabsorbed depreciation can be carried forward even if the return of income has not been filed within time.
3. Same provision shall be applicable in respect of unabsorbed capital expenditure on scientific research and unabsorbed capital expenditure on promoting family planning among employees

## Carry forward and Set off of Speculation loss [Sec. 113]

1. As per Sec. 66(31), speculative transaction means a transaction in which contract for the purchase and sale of any commodity including stock and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts, other than the following transactions:
  - a. a specified derivative transaction;
  - b. a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured, or merchandise sold by him;
  - c. a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;
  - d. a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage, to guard against loss which may arise in the ordinary course of his business as such member
2. Further, as per sec. 113(5), where any part of the business of a *company* consists of purchase and sale of shares of other companies, such company shall be deemed to be carrying on speculation business to the extent of purchase and sale of shares. However, this rule is not applicable in case of companies -
  - a) of which gross total income mainly consists of income which is chargeable under the head “Income from house property”, “Capital gains”, and “Income from other sources”; or
  - b) of which principal business is the business of trading in shares or banking or granting of loans and advances.

**Notes:** Above explanation covers only transactions of purchase and sale of shares. Debentures, units of UTI or of Mutual Funds are not covered by this provision.

### Treatment

Losses from speculative transactions or business can be carried forward and set off against income from speculative business only.

**Period for which carry forward shall be allowed:** 4 tax years immediately succeeding the tax year in which such loss is first computed.

### Taxpoint

1. **Continuity of business:** It is not necessary that the same speculation business must be continued in the year of carry forward and set off of the losses.
2. **Filing of return:** As per sec. 121, the loss cannot be carried forward unless the return is filed within the time limit provided u/s 263(1) [subject to the exception where delay is condoned].
3. **Treatment of unabsorbed depreciation, etc.:** Unabsorbed depreciation, unabsorbed capital expenditure on scientific research and unabsorbed capital expenditure on family

planning are not covered by sec. 112 or 113. Such losses can be carried forward for any number of years.

4. **Losses of illegal speculative business:** Loss arising from illegal speculative business cannot be carried forward to the subsequent years for set off against the profits of another speculative business.

### **Carry forward & set off of loss from specified business covered u/s 46 [Sec. 114]**

Losses from specified business covered u/s 46 [in case of individual., HUF, AOP, BOI or AJP - under old regime] can be carried forward and set off against income from other specified business.

**Period for which carry-forward shall be allowed:** No time limit is prescribed.

**Filing of return:** As per sec. 121, the loss cannot be carried forward unless the return is filed within the time limit provided u/s 263(1) [subject to the exception where delay is condoned].

### **Carry forward and set off of losses from activity of owning and maintaining race horses [Sec. 115]**

In case of an assessee, being the owner of horses maintained by him for running in horse races (race horses), the amount of loss incurred by the assessee in the activity of owning and maintaining race horses in any tax year shall be set off only against income from the activity of owning and maintaining race horses.

**Period for which carry forward shall be allowed:** 4 tax years immediately succeeding the tax year in which such loss is first computed.

#### **Notes**

1. **Continuity of activity:** Activity of owning and maintaining race horses must be carried on by the assessee in the tax year in which set off is claimed.
2. **Filing of return:** As per sec. 121, the loss cannot be carried forward unless the return is filed within the time limit provided u/s 263(1) [subject to the exception where delay is condoned].
3. **Horse Race:** Horse race means a race upon which wagering or betting on horses may be lawfully made.
4. **Amount of loss incurred by the assessee in the activity of owning and maintaining race horses** means—

Particulars	₹
Amount of expenditure (not being in the nature of capital expenditure) laid out or expended by him wholly and exclusively for the purposes of maintaining race horses	***
<i>Less:</i> Income by way of stake money	***

Loss incurred in the activity of owning and maintaining race horses	***
<p>➤ Income by way of stake money means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning a particular position in horse race</p> <p>➤ Race horses means horses owned and maintained by assessee for running in a horse race</p>	

**Taxpoint**

In short,

Sec.	Type of loss to be carried forward & set off	Income against which carried forward loss can be set off in next year(s)	For how many years loss can be carried forward	Is it necessary to submit return in time
110	House property loss [No c/f under new tax regime]	Income under the head “Income from house property”	8 years	No
111	Short term Capital Loss	Income under the head “Capital gains”	8 years	Yes
111	Long term Capital Loss	Long term capital gain	8 years	Yes
112	Non-speculation business loss (other than depreciation etc.)	Any income under the head ‘Profits & gains of business or profession’ (whether from speculation or otherwise)	8 years	Yes
33(11)	Unabsorbed depreciation, capital expenditure on scientific research and family planning	Any income other than Income under the head Salaries and winning from lotteries, etc.	Indefinite years	No
113	Speculation business loss	Income from speculation transaction	4 years	Yes
114	Loss of specified business covered u/s 46	Income from any specified business	Indefinite years	Yes
115	Loss from activity of owning and maintaining race horses	Income from the activity of owning and maintaining race horses	4 years	Yes

## Bonus Stripping [Sec. 175(9)]

### Conditions for applicability

Where—

- a) any person buys or acquires any securities or units<sup>§</sup> within 3 months before the record date<sup>#</sup>;
- b) such person is allotted additional securities or units without any payment on the basis of holding of such securities or units on such date;
- c) such person sells or transfers all or any of the original securities or original units within a period of 9 months after such date, while continuing to hold all or any of the additional securities or units referred to in clause (b).

### Tax treatment

- a) Loss, if any, arising to him on account of such purchase and sale of all or any of such securities or units shall be ignored for the purposes of computing his income chargeable to tax; and
- b) The amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional securities or units referred to in clause (b) as are held by him on the date of such sale or transfer.

<sup>§</sup> Unit shall mean:

- a. a unit of a business trust defined u/s 2(21);
- b. a unit defined in sec. 208(3)(c)
- c. beneficial interest of an investor in an Alternative Investment Fund, referred to in regulation 2(1)(b) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992, and shall include shares or partnership interests

<sup>#</sup> Record date means such date as may be fixed by –

- a. a company;
- b. a Mutual Fund or the Administrator of the specified undertaking or the specified company; or
- c. a business trust defined in sec. 2(21); or
- d. an Alternative Investment Fund defined in regulation 2(1)(b) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992,

for the purposes of entitlement of the holder of the securities or units, as the case may be, to receive dividend, income, or additional securities or units without any consideration.

## Section & Rule Mapping

Particulars	Sec. under	Sec. under
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	1961 Act	2025 Act
Intra-head adjustment	70	108
Inter-head adjustment	71	109
Loss under the head ‘Income from house property’	71B	110
Loss under the head ‘Capital gains’	74	111
Loss under head “Profits and gains of business or profession” other than speculation loss	72	112
Loss from speculation business	73	113
Loss from specified business covered u/s 46	73A	114
Loss from activity of owning and maintaining race horses	74A	115
Treatment of accumulated losses and unabsorbed depreciation in amalgamation or demerger, etc.	72A	116
Treatment of accumulated losses and unabsorbed depreciation in scheme of amalgamation in certain cases	72AA	117
Carry forward and set off of losses and unabsorbed depreciation in business reorganization of co-operative banks	72AB	118
Carry forward and set off of losses not permissible in certain cases	78 & 79	119
No set off of losses against undisclosed income consequent to search, requisition and survey	79A	120
Submission of return for losses	80	121



# DEDUCTIONS & RELIEF

From Gross Total Income (being aggregate of income under five heads), assessee can claim several deductions as specified in chapter VIII and sec. 144 on fulfillment of prescribed conditions as laid down in the respective sections. After allowing these deductions, total income of the assessee has arrived & tax is charged on it at the prescribed rates.

**Taxpoint:** Under default regime, deduction under following sections is available:

- 124(1)
- 124(2)
- 125(2); and
- 146,

and deductions under other sections are not available.

## Basic Rules

1. **Deductions not available from:** Deductions under chapter VIII are not available from -
  - long-term capital gain;
  - short term capital gain covered u/s 196 (i.e., STCG on which STT is charged); and
  - casual income like winning from lotteries, races, etc.
  - Income of non-resident or foreign company referred to in sec. 207 / 208 / 209 / 210 / 213
2. **Limit of deduction:** The aggregate amount of deduction under chapter VIII cannot exceed *Gross Total Income* of the assessee excluding -
  - long term capital gain;
  - short term capital gain covered u/s 196;
  - casual income like winning from lotteries, card-games, horse races, etc.; and
  - Income of non-resident or foreign company referred to in sec. 207 / 208 / 209 / 210 / 213
3. **Deduction must be claimed:** Deduction under chapter VIII – Part C shall be available only if the assessee claims for it in the return of income.
  - The amount of deduction cannot exceed the profits and gains of the undertaking or unit or enterprise or eligible business.
  - Return of income should be filed within due date of filing return of income.
4. **Double deduction not permissible:** Where deduction under any section of chapter VIII has been claimed then the same shall not qualify for deduction in any other section or to any other person.

### 11.1

## Deduction u/s 123 in respect of LIC premium, contributions to PF, etc.

*Not available under the default tax regime*

### Applicable to

An Individual or a Hindu Undivided Family (whether resident or non-resident)

### Condition to be satisfied

Assessee has made a deposit or an investment (as specified in Schedule XV) in any one or more of the listed items (as given below) during the tax year.

Particulars	Notes												
<b><u>Category A</u></b>													
<b>Applicable to Individual &amp; HUF both</b>													
<b>1. Life insurance premium paid by a person to effect or to keep in force an insurance policy (life policy or endowment policy)</b>	<b>1. Insurance policy can be taken on life of the following:</b> <b>(a) <u>In case of an individual:</u></b> Himself, spouse and child (whether major or minor) of such individual; <b>(b) <u>In case of HUF:</u></b> Any member of the HUF.  <b>2. <u>Maximum limit:</u></b> Premium on insurance policy in excess of following % of the actual sum assured shall be ignored.												
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">Policy issued</th> <th style="width: 33%;">Insured is disable* or suffering from disease specified u/s 128</th> <th style="width: 33%;">Insured is any other person</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Upto 31-03-2012</td> <td style="text-align: center;">20%</td> <td style="text-align: center;">20%</td> </tr> <tr> <td style="text-align: center;">During 2012-13</td> <td style="text-align: center;">10%</td> <td style="text-align: center;">10%</td> </tr> <tr> <td style="text-align: center;">On or after 01-04-2013</td> <td style="text-align: center;">15%</td> <td style="text-align: center;">10%</td> </tr> </tbody> </table>	Policy issued	Insured is disable* or suffering from disease specified u/s 128	Insured is any other person	Upto 31-03-2012	20%	20%	During 2012-13	10%	10%	On or after 01-04-2013	15%	10%
Policy issued	Insured is disable* or suffering from disease specified u/s 128	Insured is any other person											
Upto 31-03-2012	20%	20%											
During 2012-13	10%	10%											
On or after 01-04-2013	15%	10%											
	<b>3. <u>Actual capital sum assured</u></b> in relation to a life insurance policy shall mean the minimum amount assured under the policy on happening of the insured event at any												

\* Disable or severe disable as referred to in sec. 154

	<p>time during the term of the policy, not taking into account:</p> <p>(i) the value of any premium agreed to be returned; or</p> <p>(ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.</p>
<p>2. Contribution made towards Public provident fund (PPF).</p>	<p>1. Subscription should be in the name of following persons:</p> <p>a) <b><u>In case of individual:</u></b> Such individual, his spouse and child (whether major or minor);</p> <p>b) <b><u>In case of HUF:</u></b> Any member of HUF.</p> <p>2. Contribution must not be in form of repayment of loan</p>
<p>3. Any subscription to notified National Savings Certificates</p>	<p>1. If contribution is made in joint names, the person who has contributed the money is eligible to claim deduction.</p> <p>2. An individual can claim deduction in respect of certificates purchased in the name of his spouse or minor child.</p> <p>3. <b><u>Treatment of accrued interest:</u></b> Deduction is also available on accrued interest which is reinvested. i.e., interest upto penultimate year of lock-in-period is eligible for deduction.</p>
<p>4. Contribution for participating in the Unit-linked Insurance Plan (ULIP) of Unit Trust of India (UTI) or ULIP of LIC Mutual fund</p>	<p>Contribution can be made in the names of following persons:</p> <p><b><u>In case of individual:</u></b> Such individual, spouse and child (major or minor) of such individual;</p> <p><b><u>In the case of HUF:</u></b> Any member of HUF.</p>
<p>5. Sum paid to effect or keep in force a contract for notified annuity plan of the LIC or any other insurer.</p>	<p>E.g., New Jeevan Dhara and New Jeevan Akshay, New Jeevan Dhara I and New Jeevan Akshay I, II and III</p>
<p>6. Subscription to notified units of a specified Mutual fund / administrator or the specified company as referred in sec. 2 of UTI.</p>	<p>Eligible scheme: Equity Linked Saving Scheme, 2005.</p>



<b>7.</b> Subscription to a notified deposit scheme or contribution to a notified pension fund, set up by the National Housing Bank	National Housing Bank (Tax Saving) Term Deposit Scheme, 2008
<b>8.</b> Any sum paid as subscription to a notified deposit scheme.	Such deposit scheme shall be of - ➤ Public sector companies engaged in providing long-term finance for construction or purchase of houses in India for residential purpose; or ➤ Any authority constituted in India for the purpose of satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns, villages or for both.
<b>9.</b> Any payment for purchase or construction of a residential house property (the income from which is chargeable to tax under the head "Income from house property), by way of - <b>a)</b> any instalment due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or <b>b)</b> any instalment due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or <b>c)</b> repayment of the amount borrowed by the assessee from specified person <sup>#</sup> <b>d)</b> stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee [Sec. 80C(2)(xviii)]	# Specified person includes - <b>i.</b> the Central or State Government; or <b>ii.</b> any bank, including a co-operative bank; or <b>iii.</b> the National Housing Bank; or <b>iv.</b> Life Insurance Corporation; or <b>v.</b> any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes; or <b>vi.</b> any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of house; or <b>vii.</b> the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act; <b>viii.</b> the assessee's employer where such employer is a public company or public sector company, or a university established by law or a college affiliated

	<p>to such university or local authority or co-operative society.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Any expenditure in respect of which deduction is allowable u/s 22 is not eligible for deduction.</li> <li>• Repayment of loan borrowed for acquiring commercial property are not entitled for deduction.</li> <li>• Repayment of loan taken for repair, alteration, renovation, addition are not eligible for deduction</li> </ul>
<p><b>10.</b> Any amount invested in -</p> <ol style="list-style-type: none"> <li>a. Debentures of or equity shares in an eligible issue of capital; or</li> <li>b. Eligible issue of capital of any public financial institution.</li> </ol>	<p><i>Eligible issue of capital</i> means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilized wholly and exclusively for the purpose of any specified business</p>
<p><b>11.</b> Subscription to units of any mutual fund provided amount of subscription to such units is</p>	



subscribed only in the eligible issue of capital	
12. Investment as term deposit for a period of 5 years or more with a scheduled bank.	Such term deposit scheme shall be framed and notified by the Central Government.
13. Notified Bonds issued by the National Bank for Agriculture and Rural Development (NABARD)	
14. Senior Citizens Savings Scheme Rules, 2004	
15. 5 year time deposit in an account under the Post Office Time Deposit Rules, 1981	
<b>Applicable to Individual only</b>	
1. Payment by an individual in respect of deferred annuity.	<ol style="list-style-type: none"><li>1. Annuity may be taken in the name of the individual, spouse and any child of such individual.</li><li>2. Such contract does not contain an option to receive a cash payment in lieu of the annuity</li></ol>
2. Any sum deducted from salary of a Government employee for the purpose of securing to him a deferred annuity or making provision for his wife or children.	<b>Maximum limit:</b> 20% of salary of the employee
3. Contribution made towards statutory provident fund and recognised provident fund.	Contribution must not be in form of repayment of loan
4. Contribution made towards an approved superannuation fund.	
5. Subscription to any notified Government security or any notified deposit scheme (i.e., Sukanya Samriddhi Account Scheme)	Subscription should be in the name of the following persons: <ul style="list-style-type: none"><li>- Such Individual or any girl child of that individual, or</li><li>- any girl child for whom such person is the legal guardian, if the scheme so specifies</li></ul>
6. Contribution to any notified pension fund set up by a Mutual Fund or by the administrator or the	

specified company referred u/s 2 of the UTI	
<p>7. Any payment by way of tuition fees to any university, college, school or other educational institution <i>situated within India</i> for the purpose of <i>full-time education</i>.</p> <p><b><u>Restriction on number of child:</u></b> Deduction shall be allowed in respect of max 2 children.</p>	<p><b><u>Admission fee:</u></b> Tuition fees may be at the time of admission or thereafter</p> <p><b><u>Donation to school, etc:</u></b> Such payment does not include any payment towards any development fees or donation or payment of similar nature.</p> <p><b><u>Private tuition fee</u></b> is not covered.</p>
<p>8. Contribution to a specified account (i.e., NPS Tier-II account) of the notified pension scheme referred to in sec. 124 for a fixed period of not less than 3 years by an employee of the Central Government</p>	
<p>9. Contribution made in a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from the fund</p>	It should be approved by controller of insurance or IRDA
<p>10. Contribution to notified pension scheme (NPS) to the extent of:-</p> <p>i. Salaried individual: 10% of salary, including dearness allowance (forming part of retirement benefits)</p> <p>ii. Other Individual: 20% of gross total income during the tax year</p>	
<p><b><u>Taxpoint:</u></b> <i>Cash basis:</i> For the purpose of deduction u/s 123, amount paid, invested or deposited shall be considered on payment basis. Payments, which have become due during the tax year but not paid till the end of the tax year, shall not be eligible for deduction. Above rule holds good, even though the assessee follows mercantile system of accounting.</p>	

**Quantum of deduction**

Deduction under this section shall be minimum of the following:

- Aggregate of the eligible contributions, expenditure or investments (discussed above)
- ₹ 1,50,000

**Lock in period**

Lock in period in following cases -



**Life Insurance Policy:** The Life insurance policy (point 1) cannot be surrendered unless premium for 2 years on such policy has been paid.

**Housing Loan:** The house acquired (point 9) cannot be transferred before 5 years from the end of financial year in which the possession of such property is obtained by assessee.

**Unit Linked Insurance Plan:** The participation in plan (point 5) cannot be ceased before contribution in respect of such participation has been paid for 5 years.

**Shares or debentures of infrastructure company or power company or mutual fund:** Equity shares, debentures, etc. (point 10) cannot be sold or otherwise transferred within 3 years from the date when name of the assessee for those shares or debentures has been entered in the register of member or debenture holder by the company or the Mutual fund.

**Investment in Senior Citizen Saving Scheme / Post office Time Deposit:** Such amount, including interest accrued thereon, shall not be withdrawn by the assessee from his account, before the expiry of 5 years from the date of its deposit. However, any amount received by the nominee or legal heir of the assessee, on the death of such assessee, shall not be included.

**Consequence in case of violation of lock in period**

If the above lock in period is violated, then entire amount of deduction allowed earlier in any tax year, shall be treated as taxable income in the year in which default is made.

## **Deduction u/s 124 in respect of contribution to pension scheme**

*Sec. 124(1) and 124(2): Available under both tax regimes*

**Applicable to**

An individual

**Condition to be satisfied**

During the tax years, the assessee has paid or deposited any amount in his account under a pension scheme notified by the Central Government (Atal Pension Yojna).

**Quantum of Deduction**

***Deduction u/s 124(1) & (2) [Available under both tax regimes]***

Whole of the contribution made by the employer to such account to the maximum of 10% (14% where such contribution is made by the Central or State Govt.) of his salary<sup>1</sup> in the tax year.

However, where assessee is under default tax regime, employer’s contribution to the extent of 14% of salary is available as deduction.

**Taxpoint:** The maximum deduction limit u/s 124(1) are as under:

Regime	Maximum Deduction u/s 124(1)	
	Government Employee	Non-Government Employee
Default regime	14% of salary	14% of salary
Old regime	14% of salary	10% of salary

***Additional Deduction u/s 124(3) & (4) for contribution to National Pension System and/or NPS Vatsalya [Not available under default tax regime]***

Lower of the following shall also be eligible for deduction

a. Contribution to the National Pension System or NPS Vatsalya<sup>†</sup> by any individual [if it’s not claimed u/s 123]

b. ₹ 50,000

**Other Points**

1. "Salary" here means Basic + Dearness allowance, if the terms of employment so provide + Commission on turnover.
2. Employee’s contribution to NPS is available as deduction u/s 123 within the overall limit of ₹ 1,50,000 prescribed u/s 123. However, excess, if any, may be claimed u/s 124(3)
3. Where any amount standing to the credit of the assessee in his account, (in respect of which a deduction has been allowed), together with the amount accrued thereon is received by the assessee or his nominee, whether –
  - a. on account of closure or his opting out of the pension scheme; or
  - b. as pension received from the annuity plan purchased or taken on such closure or opting out,
 - shall be deemed to be the income of the assessee or his nominee, as the case may be, in the tax year in which such amount is received, and shall accordingly be charged to

<sup>†</sup> This savings-cum-pension scheme is designed exclusively for minors and will be operated by the guardian for the exclusive benefit of the minor till they attain majority. The deduction is available to the parent/guardian for contributions made to the account of a minor under the pension scheme (within overall limit of ₹ 50,000). When a minor attains 18 years, the account will continue to be operational, transferred to the child's name with the accumulated corpus and will be shifted into the NPS-Tier 1 Account - All Citizen Model or other non-NPS scheme account

tax.

**Exemption**

- i. In case of withdrawal from the NPS by an assessee on closure of account or on his opting out of the pension scheme, 60% of the total amount payable to him at the time of such closure or his opting out of the scheme shall be exempt. i.e., 40% shall be taxable.
- ii. Amount received on account of closure or opting out of the pension scheme by the nominee, on the death of the assessee, shall be exempted in hands of the nominee.
- iii. Partial withdrawal upto 25% of the amount contributed by the assessee under the pension scheme (or NPS Vatsalya), shall be exempted fully. The amount on which deduction has been allowed and is received on closure of the NPS Vatsalya account due to the death of the minor shall not be deemed to be the income of the parent/guardian.
- iv. Where amount withdrawn is used for purchasing an annuity plan in the same tax year (i.e. year of withdrawal), such receipt shall not be taxable.

**Unified Pension Scheme:** When a subscriber or their nominee receives a payout from the Unified Pension Scheme (UPS) upon superannuation, voluntary retirement, or non-penal retirement under Fundamental Rule 56(j), the entire amount—including accrued interest on which a tax deduction was previously claimed—is fully taxable as income in the year it is actually received.

However, if those funds are transferred from the subscriber's individual corpus into the collective "pool corpus" upon retirement, the amount is legally not considered "received" by the assessee and will not trigger immediate taxation.

### Deduction u/s 125 in respect of Contribution to Agnipath Scheme

*125(1): Not Available under default tax regime*

*125(2): Available under both tax regime*

**Applicable to**

Individual assessee

**Conditions**

- Such individual is enrolled in the Agnipath Scheme<sup>‡</sup> and subscribing to the Agniveer Corpus Fund.
- During the tax year, he and / or Central Government has contributed any amount in his account in the said Fund

**Deduction**

Particulars	Old Regime	Default Regime
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<sup>‡</sup> *Feature of the Agniveer Scheme:* Each Agniveer is to contribute 30% of his monthly customized Agniveer Package to the individual's Agniveer Corpus Fund. Further, the Government will also contribute a matching amount to the 'Agniveer Corpus Fund'. The Government will also pay to the subscriber interest as approved from time to time on the contributions standing in his account

Own contribution to the corpus	Amount so contributed	<b>Not available</b>
Contribution by Central Government	Amount so contributed	Amount so contributed
<b>Deduction u/s 125</b>	***	***

Taxpoint

- The entire Central Government’s contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. However, deduction u/s 125(2) would be available for the same.
- Any payment from the Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee would be exempt from tax
- Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.
- *Agniveer Corpus Fund* means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

**Deduction u/s 126 in respect of Medical Insurance Premium**

*Not Available under the default tax regime*

Applicable to

An individual or an HUF (irrespective of residential status or citizenship)

**Conditions to be satisfied**

1. **Payment for health insurance or medical check-up:** The assessee has made payment for health insurance of the following person:

Category	Assessee	Nature of Payment	Expenditure on behalf of	Quantum of Deduction
1	Individual	<p><b>a.</b> Payment of Mediclaim insurance premium<sup>#</sup>; or</p> <p><b>b.</b> Contribution to the Central Government Health Scheme or any other notified Health Scheme<sup>§</sup></p> <p><b>c.</b> Preventive health check up expenditure</p>	Himself/herself, spouse or <i>dependent</i> children	<p>Lower of the following:</p> <p><b>a.</b> Aggregate of</p> <ul style="list-style-type: none"> <li>– Premium paid; or</li> <li>– Contribution made; or</li> <li>– Preventive health check up (upto ₹ 5,000)</li> </ul> <p><b>b.</b> ₹ 25,000 p.a.</p> <p><b><u>Senior Citizen</u></b></p> <p>Where the person, for whom such premium (<b>not</b> for payment made for preventive health check up) is paid, is a senior citizen, then maximum limit of deduction shall be increased to ₹ 50,000 instead of ₹ 25,000.</p>
2	Individual	<p><b>a.</b> Payment of Mediclaim insurance premium<sup>#</sup></p> <p><b>b.</b> Preventive health check up expenditure</p>	Parents (whether dependent or not)	<p>Lower of the following:</p> <p><b>a.</b> Aggregate of</p> <ul style="list-style-type: none"> <li>– Premium paid; or</li> <li>– Preventive health check up (upto ₹ 5,000)</li> </ul>

<sup>§</sup> Contributory Health Service Scheme of the Department of Atomic Energy

				<p><b>b. ₹ 25,000 p.a.</b>  <u><b>Senior Citizen</b></u>                  Where the person, for whom such premium (<b>not</b> for payment made for preventive health check up) is paid, is a senior citizen, then maximum limit of deduction shall be increased to ₹ 50,000 instead of ₹ 25,000.</p>
<p><u><b>Note:</b></u>  <i>The deduction for payment made for preventive health check up (for self, spouse, dependent children and parents) for category 1 &amp; 2 does not exceed in the aggregate ₹ 5,000 subject to overall limit of ₹ 25,000/- or ₹ 50,000/-</i></p>				
3	HUF	Payment of Mediclaim insurance premium <sup>#</sup>	Any member of the family.	Lower of the following: a. Premium Paid; or b. ₹ 25,000 <u><b>Senior Citizen</b></u> Where the person, for whom such premium is paid, is a senior citizen, then maximum limit of deduction shall be increased to ₹ 50,000 instead of ₹ 25,000.
4	Individual / HUF	Amount paid on account of medical expenditure provided mediclaim insurance is not paid on the health of such person	Expenditure incurred for any of the following person who is a <b>senior citizen</b> : <u><i>In case of Individual</i></u> <b>a.</b> Himself/herself, spouse; or <b>b.</b> <i>dependent</i> children; or	Lower of the following: a. Medical Expenditure incurred; or b. ₹ 50,000

			c. Either or both of the parents <i>In case of HUF:</i> a. Any member of the family									
<p><b>Note:</b>                  The deduction for category 4 is available only from the overall limit of category 1 or category 2 or category 3 respectively. In other words, maximum deduction under category 1, 2, 3 and 4 are as under:</p> <table border="1"> <thead> <tr> <th>Category</th> <th>Maximum Deduction</th> </tr> </thead> <tbody> <tr> <td>Category 1 &amp; 4</td> <td>₹ 50,000/-</td> </tr> <tr> <td>Category 2 &amp; 4</td> <td>₹ 50,000/-</td> </tr> <tr> <td>Category 3 &amp; 4</td> <td>₹ 50,000/-</td> </tr> </tbody> </table>					Category	Maximum Deduction	Category 1 & 4	₹ 50,000/-	Category 2 & 4	₹ 50,000/-	Category 3 & 4	₹ 50,000/-
Category	Maximum Deduction											
Category 1 & 4	₹ 50,000/-											
Category 2 & 4	₹ 50,000/-											
Category 3 & 4	₹ 50,000/-											
<p><b>Dependent children:</b> Children are said to be dependent if their own resources are not sufficient enough to support them.</p> <p># Such mediclaim insurance policy should be in accordance with the scheme framed in this behalf by -</p> <ul style="list-style-type: none"> <li>• General Insurance Corporation of India (GIC) &amp; approved by the Central Government (i.e. Mediclaim insurance policy); or</li> <li>• Any other insurer who is approved by the Insurance Regulatory and Development Authority.</li> </ul>												

- Mode of payment:** The premium or medical expenditure must be paid by any mode other than cash. However, payment shall be made by any mode, including cash, in respect of any sum paid on account of preventive health check-up.
- Payment out of taxable income:** The amount must be paid out of income, which is chargeable to tax. However, it is not necessary that such income relates to current year.

**Taxpoint:**

- Where lumpsum health insurance premium is paid (single premium) covering insurance for more than a year, then, deduction is available on proportionate basis (Total premium paid / Number of years).
- For claiming higher deduction of ₹ 50,000, payer need not be a senior citizen but person insured must be a senior citizen.
- Senior citizen means an individual resident in India who is of the age of 60 years or more at any time during the relevant tax year

**Illustration 1**

Mr. Shyam (40 years) has incurred following expenses:

Particulars	₹
Mediclaim Insurance premium paid for himself	12,000
Mediclaim Insurance premium paid for spouse	11,000

Mediclaim Insurance premium paid for dependent children	6,000
Mediclaim Insurance premium paid for mother (76 years)	18,000
Preventive health-check up expenditure for mother	8,000
Medical expenditure incurred for father (78 years)	39,000

Compute deduction available to Mr. Shyam u/s 126.

**Solution**

Computation of deduction u/s 126 available to Mr. Shyam

Particulars		Amount	Amount
Mediclaim Insurance premium paid for himself			12,000
Mediclaim Insurance premium paid for spouse			11,000
Mediclaim Insurance premium paid for dependent children			6,000
Deductible amount (A) [Maximum]			<b>25,000</b>
<u>Add: Additional deduction for parents</u>			
Mediclaim Insurance premium paid for mother (B)			<b>18,000</b>
<u>Add: Expenditure incurred for preventive health check up</u>	<b>Incurred</b>	<b>Max.</b>	
Preventive health-check up expenditure for mother <sup>! Max. limit</sup>	8,000	5,000 <sup>!</sup>	
Restricted to overall maximum limit for preventive health check ups (C)			<b>5,000</b>
<u>Add: Medical expenditure incurred for father being senior citizen (D) @ [₹50,000 – (B) – (C)]</u>	39,000	27,000 <sup>@</sup>	<b>27,000</b>
<b>Deduction u/s 126 (A + B + C + D)</b>			<b>75,000</b>

**Taxpoint:** However, if the assessee is under the default tax regime, the deduction u/s 126 is not available to him.

**Illustration 2**

Mr. Rahim (55 years) has incurred following expenses:

Particulars	₹
Mediclaim Insurance premium paid for himself	10,000
Mediclaim Insurance premium paid for spouse	10,000
Mediclaim Insurance premium paid for dependent children	5,000
Mediclaim Insurance premium paid for mother (76 years)	9,000
Mediclaim Insurance premium paid for father (82 years)	39,000
Preventive health-check up expenditure for father	6,000
Medical expenditure incurred for father	14,000

Compute deduction u/s 126.

**Solution**

Computation of deduction u/s 126 available to Mr. Rahim

Particulars		Amount	Amount
Mediclaime Insurance premium paid for himself			10,000
Mediclaime Insurance premium paid for spouse			10,000
Mediclaime Insurance premium paid for dependent children			5,000
Deductible amount (A)			<b>25,000</b>
<i>Add: Additional deduction for parents</i>			
Mediclaime Insurance premium paid for mother			9,000
Mediclaime Insurance premium paid for father			39,000
Deductible amount (B)			<b>48,000</b>
<i>Add: Expenditure incurred for preventive health check up</i>	<b>Incurred</b>	<b>Max. Limit</b>	
Preventive health-check up expenditure for father <sup>![(₹50,000 – (B))]</sup>	6,000	2,000 <sup>!</sup>	<b>2,000</b>
<i>Add: Medical expenditure incurred for father being super-senior citizen (D)</i>			<b>Nil</b>
(As mediclaime insurance premium is paid on the health of father)			
<b>Deduction u/s 126 (A + B + C + D)</b>			<b>75,000</b>

**Taxpoint:** However, if the assessee is under the default tax regime, the deduction u/s 126 is not available to him.

## Deduction u/s 127 in respect of maintenance of dependant disable relative

*Not Available under the default tax regime*

### Applicable to

A resident individual (irrespective of citizenship) or a resident HUF

### Conditions to be satisfied

#### 1. Assessee has a dependent disable relative:

##### a) Dependent Relative

In the case of	Relative includes
Individual	Spouse, children, parents, brothers and sisters of the individual
HUF	Any member of the Hindu Undivided Family

**Dependent Relative:** A relative is said to be dependent if he wholly or mainly depends on such individual or HUF for his support and maintenance.

- b) **Disability** shall have the meaning assigned to it in Sec. 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and includes "autism", "cerebral palsy" and "multiple disability" referred to in sec. 2(a), 2(c) and 2(h) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

**Person with disability** means a person as referred to in Sec. 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or sec. 2(j) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (i.e., a person suffering with 40% or more of one or more ‘disabilities’ as certified by a medical authority).

Disability includes blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation, mental illness.

2. **No benefit u/s 154 to disable relative:** The disable individual has not claimed benefit u/s 154.
3. **Expenditure on disable relative:** Assessee has -
  - incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or
  - paid or deposited any amount in an approved scheme for the maintenance of a disable dependant being framed by the Life Insurance Corporation or any other insurer or the Administrator<sup>#</sup> or Unit Trust of India.

**Taxpoint**

The scheme shall provide for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability,—

- i. in the event of the death of the individual or the member of the HUF in whose name subscription to the scheme has been made; or
- ii. on attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued.

**Note:** Though assessee needs to fulfill the above condition, the amount of deduction shall not be affected by the actual expenditure incurred on the above two purposes.

4. **Medical certificate:** Assessee shall furnish a copy of the certificate (in Form 30 – Rule 61) issued by the medical authority<sup>s</sup> along with the return of income in respect of the tax year for which the deduction is claimed.

<sup>s</sup> Medical authority means medical authority as per Sec. 2(p) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in sec. 2(a), 2(c), 2(h), 2(j) and 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (i.e., specified hospital or institution.)

**Quantum of deduction**

Relative is suffering from severe disability	₹ 1,25,000
Relative is suffering from disability but not severe disability	₹ 75,000

*Taxpoint: Deduction shall be irrespective of actual expenditure incurred i.e. deduction is statutory in nature.*

**Person with severe disability** means

- a person with 80% or more of one or more disabilities, as referred to in sec. 56(4) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or
- a person with severe disability referred to in sec. 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

### **Other points**

#### **a) Revision of medical certificate**

**Condition:** Where the extent of disability requires reassessment after a period stipulated in the medical certificate.

**Treatment:** After the expiry of previous certificate, deduction under this section shall be allowed only if a new certificate is obtained from the medical authority and a copy thereof is furnished along with the return of income.

#### **b) Treatment when handicapped person predeceases [Sec. 127(4)]**

**Condition:** Where the assessee has deposited any amount in annuity plan of LIC or UTI, etc. for the benefit of disabled person and such person predeceases.

**Treatment:** Any amount received from such annuity plan shall be deemed to be the income of the assessee of the tax year in which such amount is received by the assessee.

However, nothing shall be taxable where amount is received by the dependant, being a person with disability, before his death, by way of annuity or lump sum on attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued.

## **Deduction u/s 128 in respect of medical treatment**

*Not Available under default tax regime*

### **Applicable to**

A resident individual (irrespective of citizenship) or a resident HUF

### **Conditions to be satisfied**

1. **Expenditure incurred on the medical treatment of relative:** The assessee has, during the tax year, actually paid any amount for the medical treatment of a specified disease or ailment as prescribed in rule 62. Expenditure is incurred for treatment of the assessee himself or for a dependant relative<sup>#</sup>.

<sup>#</sup> Dependant Relative

<b>In the case of</b>	<b>Relative</b>
Individual	Spouse, children, parents, brothers and sisters of the individual
HUF	Any member of the HUF

**Dependant Relative:** A relative is said to be dependant if he wholly or mainly depends on such individual or HUF for his support and maintenance.

2. **Medical Prescription:** Assessee should obtain the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed (Rule 62).

**Quantum of deduction**

Minimum of the following -

- a) Actual expenditure incurred by the assessee; or
- b) ₹ 40,000

**Deduction for senior citizen:** If such expenditure is incurred for a senior citizen<sup>#</sup>, then the maximum amount of deduction shall be enhanced to ₹ 1,00,000.

**Taxpoint:** For claiming higher deduction of ₹ 1,00,000/-, payer need not be a senior citizen but person for whom such expenditure has been incurred must be a senior citizen.

**Treatment of Mediclaim or amount reimbursed by the employer:** Deduction under this section shall be reduced by the amount received, if any -

- under an insurance from an insurer; or
  - reimbursed by an employer,
- for the medical treatment of the person.

**Taxpoint:**

<b>Quantum of Deduction</b>	
<b>Patient</b>	<b>Deduction shall be minimum of the following</b>
<i>Senior citizen</i>	<ul style="list-style-type: none"> <li>• [(Actual expenditure incurred by assessee) – (Amount reimbursed by employer or medi-claim received)]</li> <li>• [₹ 1,00,000 – (Amount reimbursed by the employer or mediclaim received)]</li> </ul>
<i>Other</i>	<ul style="list-style-type: none"> <li>• [₹ 40,000 – (Amount reimbursed by the employer or mediclaim received)]</li> <li>• [(Actual expenditure incurred by assessee) – (Amount reimbursed by employer or medi-claim received)]</li> </ul>
<b>Note:</b> In any case, the total deduction cannot exceed ₹ 1,00,000	

**Specified diseases** as per rule 11DD are -

- 1) Neurological disease: (a) Dementia (b) Dystonia Musculorum Deformans (c) Motor Neuron Disease (d) Ataxia (e) Chorea (f) Hemiballismus (g) Aphasia (h) Parkinson’s Disease (all neurological disease must have disability of 40% and above);
- 2) Cancer; 3) Full Blown Acquired Immuno Deficiency Syndrome (AIDS); 4) Chronic Renal Failure; 5) Hemophilia; and 6) Thalassemia.

**Deduction u/s 129 in respect of repayment of loan for higher education**

*Not Available under default tax regime*

### **Applicable to**

An Individual (irrespective of residential status and citizenship of the individual).

### **Conditions to be satisfied**

1. **Loan from specified institution:** The assessee had taken a loan from -
  - a financial institution; or  
*Financial Institution* means a banking company to which the Banking Regulation Act, 1949 applies (including any banking institution referred to in sec. 51 of that Act) or any other specified financial institution.
  - an approved charitable institution  
*Approved Charitable Institution* means an institution established for charitable purposes and approved by the prescribed authority u/s 10(23C) of the Income tax Act 1961 or an institution referred to in Sec. 80G(2)(a) of the said Act
2. **Purpose of loan:** The loan must have been taken for the purpose of pursuing higher education of himself/herself or for any other following persons:
  - a. Spouse    b. Children; or    c. the student for whom the individual is the legal guardian

“Higher education” means any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority to do so
3. **Payment of interest:** The assessee pays interest on such loan.
4. **Payment out of taxable income:** The amount must be paid out of income chargeable to tax. However, it is not necessary that such income relates to the current year.

### **Quantum of deduction**

Amount paid during the year by way of payment of interest.

### **Maximum permissible period for which deduction is available [Sec. 129(2)]**

Deduction under this section shall be allowed for the initial tax year and 7 tax years immediately succeeding the initial tax year<sup>§</sup> or until interest is paid by the assessee in full, whichever is earlier.

<sup>§</sup> *Initial Tax Year* means the tax year in which the assessee starts repaying the loan or interest thereon.

### **Taxpoint**

- *The deduction is available for a maximum period of 8 consecutive years.*
- *The period starts from the year in which the assessee starts paying the interest on such loan.*

**Deduction u/s 130 in respect of interest on loan taken for residential house property**

*Not Available under the default tax regime*

**Applicable to**

Individual (resident or non-resident)

**Conditions to be satisfied**

1. *Loan*: The assessee has taken loan for acquisition of the residential house property
2. *Sanction of Loan*: The loan has been sanctioned by the financial institution\*\* during the tax year 2016-17.
3. *Amount of Loan*: The amount of loan sanctioned for acquisition of the residential house property does not exceed ₹ 35 lakhs.
4. *Value of Residential Property*: The value of the residential house property does not exceed ₹ 50 lakhs.
5. *No other residential property*: The assessee does not own any residential house property on the date of sanction of the loan.

**Quantum of Deduction**

Minimum of the following:

- a. Interest on loan payable for the tax year
- b. ₹ 50,000

**Other Points**

*Double deduction is not available*: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other tax year.

*Taxpoint*: It is irrelevant whether such interest pertains to pre-construction period or post construction period.

**Deduction u/s 131 in respect of interest on loan taken for certain house property**

*Not Available under the default tax regime*

**Applicable to**

Individual (resident or non-resident) not eligible for deduction u/s 130

**Conditions to be satisfied**

1. *Loan*: The assessee has taken loan for acquisition of the residential house property from any financial institution.
2. *Sanction of Loan*: The loan has been sanctioned by the financial institution (as defined u/s 130) during 01-04-2019 to 31-03-2022.
3. *Value of Residential Property*: The stamp duty value of the residential house property does not exceed ₹ 45 lakhs.

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\*\*"Financial institution" means a banking company to which the Banking Regulation Act, 1949 applies including any bank or banking institution referred to in sec. 51 of that Act or a housing finance company.

"Housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

4. *No other residential property*: The assessee does not own any residential house property on the date of sanction of the loan.
5. *No deduction u/s 130*: The assessee is not eligible for deduction u/s 130.

#### **Quantum of Deduction**

Minimum of the following:

- a. Interest on loan payable for the tax year
- b. ₹ 1,50,000

#### **Other Points**

*Double deduction is not available*: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act [sec. 22(b)] for the same or any other tax year.

### **Deduction u/s 132 in respect of purchase of electric vehicle**

*Not Available under the default tax regime*

#### **Applicable to**

Individual (resident or non-resident)

#### **Conditions to be satisfied**

1. *Loan*: The assessee has taken loan for purchase of an electric vehicle from any financial institution.
  - *Electric vehicle* means a vehicle which is powered *exclusively* by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.
  - *Financial institution* means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in sec. 51 of that Act and includes any deposit taking non-banking financial company.
2. *Sanction of Loan*: The loan has been sanctioned by the financial institution during 01-04-2019 and 31-03-2023.

#### **Quantum of Deduction**

Minimum of the following:

- a. Interest on loan payable for the tax year
- b. ₹ 1,50,000

#### **Other Points**

*Double deduction is not available*: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other tax year.

### **Deduction u/s 133 in respect of donations to certain funds, etc.**

*Not Available under the default tax regime*

#### **Applicable to**

All assessee (irrespective of residential status and citizenship of the assessee).

**Conditions to be satisfied**

1. **Donation:** Assessee must donate (not in *kind*) to specified Funds or Organisations (as listed below).

**Taxpoint:** *Donation in kind shall not qualify for deduction*

2. **Mode of donation:** Donation in excess of ₹ 2,000 shall be made by any mode (but not in kind) other than cash.

**Taxpoint:** *Cash donation upto ₹ 2,000 shall qualify for deduction.*

**Other Points**

- a) **Specified funds or organizations:** Specified Funds or Organisations are divided into two categories:
  - i) On which limit is not applicable (Item No.1 to 22 given in the list) (hereinafter referred as Category A Organisation).
  - ii) On which limit is applicable (Item No.23 to 29 given in the list) (hereinafter referred as Category B Organisation).
- b) **Double deduction is not permissible:** Where deduction under this section has been allowed, the same shall not qualify for deduction under any other section for the same or any other Tax Year
- c) **Risk Verification:** Claim of the assessee for a deduction in respect of any donation made to an institution or fund to which the provisions of sec. 354 apply [organizations on which limit is applicable with 50% deduction], shall be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

**Taxpoint:**

- *The limit is applicable only on category B organizations or funds.*
- *The limit is applicable on qualifying amount of donation and not on deduction.*
- *The limit is not on individual donation but on aggregate donation.*

**Computation of quantum of deduction**

Particulars	Amount
100% or 50% of donation to category A organizations or funds	***
Add: 100% or 50% of donation to category B organizations or funds (subject to the Limit <sup>#</sup> )	***
Deduction u/s 133	***
<sup>#</sup> <b><u>Limit:</u></b> 10% of Adjusted Gross total income (hereinafter referred as Adj. GTI) Adjusted GTI = Gross total income – Income on which tax is not payable – Long term capital gain – Short term capital gain covered u/s 196 - All deductions u/s 123 to 154 other than deduction u/s 133 - Income referred u/s 207 to 210	



**Taxpoint:** While calculating Adjusted GTI, casual income like winning from lotteries, etc. shall be included.

**List of specified organizations or funds**

<b>Donee</b>	<b>Maximum limit</b>	<b>Deduction (as a % of net qualifying amount)</b>
1. National defence fund set up by the Central Government	NA	100%
2. Prime Minister's National Relief Fund	NA	100%
3. Prime Minister Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)	NA	100%
4. Prime Minister's Armenia Earthquake Relief Fund	NA	100%
5. Africa (Public Contributions- India) Fund	NA	100%
6. National Children's Fund	NA	100%
7. National Foundation for Communal Harmony	NA	100%
8. An approved university or educational institution of national eminence	NA	100%
9. Any fund set up by the Government of Gujarat for providing relief to victims of earthquake in Gujarat	NA	100%
10. Zila Saksharta Samiti	NA	100%
11. National or State Blood Transfusion Council	NA	100%
12. Fund set up by a State Government for medical relief to the poor	NA	100%
13. Army Central Welfare Fund or Air Force Central Welfare Fund or Indian Naval Benevolent fund	NA	100%
14. Andhra Pradesh Chief Minister's Cyclone Relief Fund	NA	100%
15. National Illness Assistance Fund	NA	100%
16. Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund	NA	100%
17. National Sports Fund or National Cultural Fund or National Fund for Technology Development and Application set up by the Central Government	NA	100%

<b>18.</b> National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities	NA	100%
<b>19.</b> Swachh Bharat Kosh <sup>††</sup>	NA	100%
<b>20.</b> Clean Ganga Fund (Only for resident donor) <sup>††</sup>	NA	100%
<b>21.</b> National Fund for Control of Drug Abuse	NA	100%
<b>22.</b> Prime Minister's Drought Relief Fund	NA	50%
<b>23.</b> Any fund or any institution established in India for a charitable purpose and is registered non-profit organisation or an institution or fund mentioned in Schedule VII (Table: Sl. No. 1) and approved under section 354;	Limit	50%
<b>24.</b> Government or any local authority to be utilised for any charitable purpose other than the purpose of promoting family planning	Limit	50%
<b>25.</b> An authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns & village, or for both	Limit	50%
<b>26.</b> A corporation established by the Central Government or any State Government for promoting the interests of the members of notified minority community	Limit	50%
<b>27.</b> A temple, mosque, gurdwara, church or other place notified as historic, archaeological or artistic importance or to be a place of worship by the Central Government (for renovation or repair)	Limit	50%
<b>28.</b> Government or any approved local authority, institution or association to be utilised for the purpose of promoting family planning	Limit	100%
<b>29.</b> The Indian Olympic Association or to any notified institute for development of infrastructure for sports	Limit	100%

<sup>††</sup> The sum is eligible u/s 133 only if the amount is not spent as Corporate Social Responsibility u/s 135(5) of the Companies Act, 2013.

<sup>†††</sup> The sum is eligible u/s 133 only if the amount is not spent as Corporate Social Responsibility u/s 135(5) of the Companies Act, 2013.

and games or sponsorship of sports and games in India (only donation by a company)		
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### **Illustration 10**

Compute total income for the tax year 2026-27 of Miss Dipika, a resident individual, from the following details:

<b>Particulars</b>	<b>Amount</b>
Profits and gains of business or profession	80,000
Income from Other Sources	10,000
Long-term Capital Gains	5,00,000
Payment of medical insurance premium on own life	5,000
Donation to National Foundation for communal harmony	4,000
Donation to the fund set up by the Gujarat Govt. for providing Relief to victims of earthquake in Gujarat	5,000
Donation to Prime Minister's Drought Relief Fund	5,000
Donation to Approved Charitable Institution	12,000
Donation to Central Government for promotion of family planning	3,000
Donation to a poor boy for higher education	10,000
Donation of cloth to an approved institution worth	12,000
Donation to charitable institution for construction of home for a particular community	8,000

### **Solution**

Computation of total income of Miss Dipika for the tax year 2026-27

<b>Particulars</b>	<b>Details</b>	<b>Amount</b>
Profits & gains of business or profession		80,000
Capital gains: Long term capital gains		5,00,000
Income from Other Sources		10,000
<b>Gross Total Income</b>		<b>5,90,000</b>
<i>Less: Deduction under chapter VIII</i>		
Sec. 126 (Assumed premium is paid by cheque)	5,000	
Sec. 133 (Donation)	17,250 <sup>§</sup>	22,250
<b>Total Income</b>		<b>5,67,750</b>

<sup>§</sup> Statement showing amount of deduction u/s 133:

<b>Donation made to</b>	<b>Amount</b>	<b>Rate</b>	<b>Deduction</b>
Donation to National Foundation for Communal Harmony	4,000	100%	4,000

Donation to the fund set up by the Gujarat Government for providing relief to victims of earthquake in Gujarat	5,000	100%	5,000
Donation to Prime Minister's Drought Relief Fund	5,000	50%	2,500
Donation to the Central Government for promotion of family planning	3,000*	100%	3,000
Donation to approved charitable institution	5,500*	50%	2,750
<b>Total amount of donation u/s 133</b>			<b>17,250</b>

\* Calculation of Deduction for donation on which limit is applicable:

Computation of limit		
Adjusted GTI	GTI – LTCG – Deductions other than deduction u/s 133	₹ 5,90,000 – ₹ 5,00,000 – ₹ 5,000 = ₹ 85,000
Limit	10% of Adj. GTI	10% of ₹ 85,000 = ₹ 8,500
<b>Application of limit:</b> There is restriction on amount of donation qualifying under this section. If assessee opts to adjust qualifying amount with donation made to approved charitable institution, then he is eligible for deduction to the extent of 50% only. So, it is beneficial for him to adjust qualifying amount, first, with donation made to the 'Central Government for promotion of family planning' as it is eligible for 100% deduction. Hence, donation shall be restricted -		
Donation to Central Government for promotion of family planning		3,000
Donation to approved charitable institution (₹ 8,500 – ₹ 3,000)		5,500
<b>Total</b>		<b>8,500</b>
<b>Donations which are not eligible for deduction u/s 133 are stated below:</b>		
<b>Donation</b>	<b>Reason</b>	
Donation to a poor boy for higher education	Donation has not been given to a specified organization	
Donation of cloth to an approved institution	Donation has been made in kind	
Donation to charitable institution for construction of home for particular community	Amount donated is for the benefit of a particular community	

**Taxpoint:** However, if the assessee is under the default tax regime, the deduction u/s 133 is not available to him.

## Deduction u/s 80GG in respect of house rent paid

*Not Available under the default tax regime*

### Applicable to

An Individual (irrespective of the residential status and citizenship of the individual)

### Conditions to be satisfied

1. **No House rent allowance:** Assessee is not receiving House Rent Allowance (HRA).

2. **No house at the place of employment:** He or his spouse or minor child or HUF of which he is a member, should not own any residential house at a place where the assessee resides, perform the duties of his office, or employment or carries on his business or profession.
3. **No claim for the benefit of self-occupied house property:** Assessee should not treat any residential house situated at other places as self-occupied property u/s 21(6)(a) or 21(7)(a).
4. **Proof for payment of rent:** An online declaration in Form 31 (Rule 65) should be filed for expenditure incurred by him towards payment of rent.

**Taxpoint:** *Rent must be paid for a residential house property whether furnished or unfurnished.*

### **Quantum of deduction**

Minimum of the following:

1. ₹ 5,000 per month;
2. 25% of Adjusted Gross total income for the year (referred as Adj. GTI); or
3. Rent paid - 10% of Adjusted GTI

### **Note**

Adjusted GTI = Gross total income – Long term capital gain – STCG taxable u/s 196 - All deduction u/s 123 to 154 other than sec. 134 – Income u/s 207(1) or 213

**Taxpoint:** *While calculating Adjusted GTI, casual income like winning from lotteries etc. shall be included.*

## **Deduction u/s 135 in respect of donations for scientific research, etc.**

***Not Available under the default tax regime***

### **Applicable to**

An assessee, who is not having any income under the head "Profits & gains of business or profession".

### **Conditions to be satisfied**

During the tax year, assessee paid any sum -

Purposes	Amount paid to
For Scientific research	Research association, university, college or to other institution as approved u/s 45(3)(a)(i) to be used for scientific research.
For social science or statistical research	Research association which has as its object the undertaking of research in social science or statistical research or to a university, college or other institution approved u/s 45(3)(a)(ii) to be used for research in social science or statistical research.

**Mode of Payment:** Payment in excess of ₹ 2,000 to aforesaid purpose shall be made by any mode other than cash.

### **Quantum of deduction**

Amount actually paid is fully deductible.

### Other Points

**Withdrawal of approval:** Deduction shall not be denied merely on the ground that subsequent to the contribution made by the assessee, the approval granted (or notification notifying eligible projects) has been withdrawn.

**Risk Verification:** Claim of the assessee for a deduction in respect of any sum referred to in sec. 135, shall be allowed on the basis of information relating to said sum furnished by the payee to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

## **Deduction in respect of contributions to political parties [Sec. 136]**

### Applicable to

An Indian company

### Condition

Assessee has contributed any sum (**by any mode other than cash**), in the tax year, to any political party registered u/s 29A of the Representation of the People Act, 1951 or an electoral trust.

### Quantum of deduction

100% of such contribution made in the tax year.

**Taxpoint:** It may be noted that there is a specific disallowance u/s 34 in respect of expenditure incurred on advertisement in a brochure of a political party. However, the said expenditure incurred by an Indian company is allowable as a deduction from gross total income u/s 136.

## **Deduction in respect of contributions given by any person to political parties [Sec. 137]**

*Not Available under the default tax regime*

### Applicable to

All assessee except local authority and an artificial juridical person wholly or partly funded by the Government

### Condition

Assessee has contributed any sum (**by any mode other than cash**), in the tax year, to any political party registered u/s 29A of the Representation of the People Act, 1951 or an electoral trust.

### Quantum of deduction

100% of such contribution made in the tax year.

## **Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc. [Sec. 138]**

In respect of any tax year, where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sec. 80-IA of the Income-tax Act, 1961 and such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed.

Deduction is available for industrial undertaking engaged in the following business—

- Infrastructure Facility
- Power generation, transmission and distribution

### **Infrastructure facility**

#### **Applicable to**

Indian Company or any consortium (combination) of such company or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act.

#### **Conditions to be satisfied**

1. **Nature of business:** The enterprise should carry on the business of -

- (a) Developing; or
- (b) Operating and maintaining; or
- (c) Developing, operating and maintaining,  
- any infrastructure facility.

*Infra-structure facility* means —

- a) A road including toll road, a bridge or a rail system;
- b) A highway project *including* housing or other activities being an integral part of the highway project;
- c) A water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;
- d) A port, airport, inland waterway or inland port or navigational channel in the sea.

2. **Agreement:** Assessee has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for -

- (i) developing; or
- (ii) operating and maintaining; or
- (iii) developing, operating and maintaining  
- a new infrastructure facility.

3. **Commencement of business:** It has started or starts operating & maintaining the facility on or after the 1-4-1995 but before 01-04-2017.

#### **Quantum of Deduction**

Case	Quantum of Deduction	Period of deduction

For infrastructure facility being -		
A port, airport, inland waterway or inland port or navigational channel in the sea	100% of the profit derived from such business	For any 10 consecutive years out of 15 years commencing from the year in which the undertaking begins to operate.
Any housing and other development activities which are an integral part of the highway project	100% of the profit derived from such business	For any 10 consecutive years out of 20 years commencing from the year in which the undertaking begins to operate subject to certain other conditions <sup>#</sup>
Any other facility	100% of the profit derived from such business	For any 10 consecutive years out of 20 years commencing from the year in which the undertaking begins to operate.

<sup>#</sup> The conditions for claiming deduction in respect of any profit derived from housing and other development activities, which are an integral part of the highway project are as follows -

1. Profit of such undertaking shall be computed in prescribed manner.
2. Such profit has been transferred to special reserve account;
3. The reserve shall be utilised for highway project excluding housing and other activities before the expiry of 3 years following the tax year in which such amount was transferred; &
4. Every assessee shall maintain separate accounts for such activities & shall submit a certificate from an accountant, specifying the amount credited to the reserve account and the amount utilised during the relevant tax year for the highway project.

**Notes**

- a) **Method of computation of profit of housing or other activities, which are an integral part of the highway project**

In a case where the annual profits can be arrived at in accordance with the regular method of accounting followed	The profits computed as per provisions of the Act
In any other case	The profits based on the percentage of completion of such activities during the tax year.

- b) **Consequence when reserve is not so utilized:** Where any reserve is not so utilised or unutilized, then such amount shall be taxable as income of the tax year in which transfer to reserve took place.

**Power generation, transmission and distribution****Applicable to**

All assessee

**Conditions to be satisfied**

1. **Nature of business:** Such undertaking is set up in *India* for the generation or generation and distribution of power.
2. **Commencement of business:** Such undertaking commences business during the following time schedule:

In case of	Period
Generation of power	1-4-1993 to 31-3-2017
Transmission or distribution by laying a network of new transmission or distribution lines	1-4-1999 to 31-3-2017
Substantial renovation and modernization <sup>1</sup> of the existing transmission or distribution lines	1-4-2004 to 31-3-2017
<sup>1</sup> . "Substantial renovation and modernisation" means an increase in the plant and machinery in the network of transmission or distribution lines by at least 50% of the book value of such plant and machinery as on the 1-4-2004.	

3. **New Business:** Business should not be formed by splitting up or reconstruction of an existing business.

**Exception**

However, this condition is not applicable in the following cases:

- In case of reconstruction, splitting up or reorganization of State Electricity Board;
  - In case when following conditions are satisfied
    - a. The business of an industrial undertaking carried on in India is discontinued in any tax year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee being used for business purpose.
    - b. Such damage was caused due to -
      - i. flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
      - ii. riot or civil disturbance; or
      - iii. accidental fire or explosion; or
      - iv. action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),
    - c. Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of tax year in which damage was caused.
4. **New Plant & Machinery:** Such undertaking should not be formed by transfer of machinery or plant previously used for any purpose.

**Exception**

- (i) In case of reconstruction, splitting up or reorganization of State Electricity Board;
- (ii) A plant or machinery is deemed as new asset if the following conditions are satisfied -
  - a. Such plant or machinery is imported into India;
  - b. Depreciation on such asset has not been allowed under this Act to any person; and
  - c. The assessee was the first user of such asset in India.
- (iii) Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.

**Quantum of Deduction**

100% of profit derived from such business for any 10 consecutive years out of 15 years commencing from the year in which the undertaking begins to operate.

**Note:** In case of undertaking engaged in transmission or distribution by laying a network of new transmission or distribution lines, deduction shall be limited to the extent of profit derived from laying of such network of new lines.

**Other points for all eligible undertaking**

1. Return of income is required to be furnished within due date of filing of return.
2. Certificate from a chartered accountant is required to be furnished one month prior to the due date of submission of the return of income.
3. In the following cases, Assessing Officer may recompute profit of the undertaking –

<b>Case 1:</b> Transaction between two undertakings of the same assessee	<b>Case 2:</b> Transaction between two assessee
Conditions	
<b>a.</b> Assessee carries on at least two undertakings	<b>a.</b> Assessee has entered into business transactions with any other person
<b>b.</b> Out of such undertakings at least one is eligible for exemption and at least one is not eligible for exemption	<b>b.</b> Business between the assessee carrying on the eligible business and any other person is so arranged that the business transacted between them produces to the assessee more than the ordinary profits, which might be expected to arise in such eligible business
<b>c.</b> Goods are transferred from eligible undertaking to any non eligible undertaking or vice versa	
<b>d.</b> The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer	
Treatment	

Profits and gains of eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date.	The Assessing Officer shall, in computing the profits and gains of such eligible business, take the amount of profits as may reasonably be deemed to have been derived there from.
However, in case the aforesaid arrangement involves a specified domestic transaction, the amount of profits from such transaction shall be determined having regard to arm's length price.	

4. **Inter-unit transfer:** Where -
- Assessee carries on at least two units
  - Out of such units at least one is eligible for deduction and at least one is not eligible for exemption
  - Goods or services are transferred from eligible unit to any non eligible unit or vice versa
  - The consideration for such transfer does not correspond to the market value of such goods as on the date of transfer
- then, deduction shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.
5. **Double deduction is not allowed**
- Where any deduction is allowed under this section, then deduction shall not be allowed under other provisions; and
  - Deduction, in any case, cannot exceed the profits and gains of eligible business of undertaking.
6. The profits and gains of an eligible business shall for the purpose of determining the quantum of deduction for the tax year immediately succeeding the initial tax year or any subsequent tax year, be computed as if such eligible business was the only source of income of the assessee during the tax year relevant to the initial tax year and to every subsequent tax year up to and including the tax year for which the determination is to be made.
7. No deduction shall be allowed if the deduction has not been claimed in the return of income.
8. No benefit is available in relation to a specified business which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise.

### **Deduction in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone [Sec. 139]**

In respect of any tax year, where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sec. 80-IAB of the Income-tax Act, 1961 and such assessee is eligible to claim a deduction from

the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed.

**Applicable to**

All assessee

**Conditions to be satisfied**

1. It must be engaged in the business of developing a Special Economic Zone (SEZ).
2. Such SEZ shall be notified on or after 1-4-2005 under the Special Economic Zones Act, 2005
3. Such development has begun before 01-04-2017.

**Quantum of deduction**

100% of profit derived from such business for 10 consecutive tax years out of 15 years commencing from the year in which such SEZ has been notified.

**Other Points**

- a. Where a developer transfers the operation and maintenance of such SEZ to another developer, then such other developer shall claim deduction for remaining period.
- b. From the date of application of this section, no deduction shall be available u/s 138 for SEZ notified on or after 1-4-2005.
- c. Where any deduction is allowed under this section, then deduction shall not be allowed under any other provisions.
- d. Return of income in time: Refer sec. 138
- e. Audit report: Refer sec. 138
- f. Power of Assessing Officer to recompute profit: Refer sec. 138
- g. No deduction shall be allowed if the deduction has not been claimed in the return of income.
- h. Profit from such business is only source of income: Refer sec. 138

**Deduction in respect of eligible start-up [Sec. 140]**

**Applicable to**

An eligible start-up

- *Eligible start-up* means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions:
  - a. it is incorporated on or after 01-04-2016 but before 01-04-2030;
  - b. the total turnover of its business does not exceed ₹ 300 crore in the tax year for which deduction is claimed; and
  - c. it holds a certificate of eligible business from the notified Inter-Ministerial Board of Certification.
- *Eligible business* means a business carried out by an eligible start up engaged in innovation, development or improvement of products or processes or services or a

scalable business model with a high potential of employment generation or wealth creation.

**Conditions to be satisfied**

1. **Eligible Business**: The assessee should be engaged in the eligible business
2. **New Business**: Business should not be formed by splitting up or reconstruction of an existing business.

**Exception**

However, this condition is not applicable where -

- The business of an industrial undertaking carried on in India is discontinued in any tax year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee being used for business purpose.
  - Such damage was caused due to -
    - i. flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
    - ii. riot or civil disturbance; or
    - iii. accidental fire or explosion; or
    - iv. action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),
  - Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of tax year in which damage was caused.
3. **New Plant and Machinery**: Such undertaking should not be formed by transfer of machinery or plant previously used for any purpose.

**Exception**

- (i) A plant or machinery is deemed as new asset if the following conditions are satisfied:
  - a. Such plant or machinery is imported into India;
  - b. Depreciation on such asset has not been allowed under this Act to any person; and
  - c. The assessee was the first user of such asset in India.
- (ii) Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.

**Quantum of deduction**

100% of profit derived from such business for 3 consecutive tax years out of 10 years commencing from the year in which such eligible start-up is incorporated.

**Other Points**

- a. Where any deduction is allowed under this section, then deduction shall not be allowed under any other provisions.
- b. Audit report: Refer sec. 138

- c. Return of income in time: Refer sec. 138
- d. Power of Assessing Officer to recompute profit: Refer sec. 138
- e. No deduction shall be allowed if the deduction has not been claimed in the return of income.
- f. Profit from such business is only source of income: Refer sec. 138

### **Deduction in respect of profits and gains from certain industrial undertakings [Sec. 141]**

In respect of any tax year, where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sec. 80-IB of the Income-tax Act, 1961 and such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed.

#### **Processing, preservation and packaging of fruits or vegetables, meat or integrated business of handling, storage & transportation of foodgrains**

##### **Applicable to**

All assessee

##### **Conditions to be satisfied**

1. The undertaking shall be engaged in -
  - the business of processing, preservation and packaging of fruits or vegetables; or
  - the business of processing, preservation and packaging of meat and meat products or poultry or marine or dairy products; or
  - the integrated business of handling, storage and transportation of foodgrains.
2. Commencement of operations: The aforesaid business begins to operate on or after following period:

Nature of business	Business begins to operate
Processing, preservation and packaging of meat and meat products or poultry or marine or dairy products	On or after 01-04-2009
Other specified business	On or after 01-04-2001

##### **Quantum of deduction**

Period of deduction	Percentage of deduction
First 5 years	100% of profit from such business
For next 5 years	25% (30% in case of company) of profit from such business

### Other Points

#### **For followings, refer sec. 138**

1. Return of income in time
2. Audit Report
3. Power of Assessing Officer to recompute profit
4. Double deduction is not allowed
5. Computation of profit of eligible business
6. Deduction must be claimed in the return of income

### **Deduction in respect of profits and gains from Housing Projects [Sec. 142]**

In respect of any tax year, where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sec. 80-IBA of the Income-tax Act, 1961 and such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed.

### **Special provisions in respect of certain undertakings in North-Eastern States [Sec. 143]**

#### Applicable to

All assessee

#### Conditions to be satisfied

1. **Time and Nature of business**: The assessee begins following activity during 01-04-2007 and 31-03-2017:
  - a) manufacture or production of any eligible article or thing; or  
*Eligible article or thing* means the article or thing other than the following:
    - i. Tobacco and manufactured tobacco substitutes;
    - ii. Pan masala;
    - iii. Plastic carry bags of less than 20 microns as specified by the Ministry of Environment and Forests; and
    - iv. Goods produced by petroleum oil or gas refineries.
  - b) undertakes substantial expansion; or  
*Substantial expansion* means increase in the investment in the plant and machinery by at least 25% of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the tax year in which the substantial expansion is undertaken.
  - c) carry on any eligible business.
    - i. hotel (not below two star category);
    - ii. adventure and leisure sports including ropeways;

- iii. providing medical and health services in the nature of nursing home with a minimum capacity of 25 beds;
  - iv. running an old-age home;
  - v. operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;
  - vi. running information technology related training centre;
  - vii. manufacturing of information technology hardware; and
  - viii. Bio-technology
2. **Location:** Such activity takes place in any of the North-Eastern States. *North-Eastern States means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.*
3. **New Business:** It is not formed by splitting up, or the reconstruction, of a business already in existence  
**Exception:** Refer sec. 140
4. **New Plant & Machinery:** It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.  
**Exception:** Refer sec. 140
5. **Return** of income is required to be furnished within due date.
6. A **report** of audit from chartered accountant (certifying that the deduction has been correctly claimed) shall be furnished one month prior to the due date of filing of the return of income.

#### **Quantum of deduction**

100% of the profits and gains of such business for a period of 10 consecutive tax years, beginning from the tax year in which such undertaking begins to manufacture or produce articles or things, or completes substantial expansion.

#### **Other Points**

- a) Double deduction is not available.
- b) Power of Assessing Officer to recomputed profit: Refer sec. 138
- c) Profit from such business is only source of income: Refer sec. 138
- d) No deduction shall be allowed if the deduction has not been claimed in the return of income.

### **Special Provision in respect of Newly established Units in SEZ [Sec. 144]**

***Not Available under default tax regime***

In respect of any tax year, where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sec. 10AA of the Income-tax Act, 1961 and such assessee is eligible to claim a deduction from the profits and gains derived from such business for such tax year under the provisions of the said section, as if the said Act had not been repealed.

***Applicable to:*** All assessee

### **Conditions to be satisfied**

1. The assessee is an entrepreneur as defined in Sec.2(j) of SEZ Act, 2005 i.e., a person who has been granted a letter of approval by the Development Commissioner u/s 15(9) of the said Act.
2. The undertaking has begun or begins to manufacture or produce articles or things or provide services on or after 01/04/2005 but not after 31/03/2020 in any SEZ.  
However, in case where letter of approval, required to be issued in accordance with the provisions of the SEZ Act, 2005, has been issued on or before 31-03-2020 and the manufacture or production of articles or things or providing services has not begun on or before 31-03-2020 then, the date for manufacture or production of articles or things or providing services has been extended to 31-03-2021 or such other date as notified by the Central Government.
3. **New Business:** Business should not be formed by splitting up or reconstruction of an existing business.  
**Exception:** Refer sec. 140
4. **New Plant and Machinery:** Such undertaking should not be formed by transfer of machinery or plant previously used for any purpose.  
**Exception:** Refer sec. 140
5. A report of a chartered accountant in specified Form must be uploaded one month prior to the due date of filing return of income.
6. Return of income is required to be furnished within due date specified u/s 263(1) and such deduction should be claimed in the return of income.

### **Quantum of Deduction**

<b>Period</b>	<b>Deduction</b>
For first 5 years from the commencement of operation	$\frac{\text{Profits of the business of the undertaking} * \text{Export turnover}}{\text{Total turnover of the business carried on by the undertaking}}$
For next 5 years	$50\% \text{ of } \left[ \frac{\text{Profits of the business of the undertaking} * \text{Export turnover}}{\text{Total turnover of the business carried on by the undertaking}} \right]$
For next 5 years	$50\% \text{ of } \left[ \frac{\text{Profits of the business of the undertaking} * \text{Export turnover}}{\text{Total turnover of the business carried on by the undertaking}} \right]$ <b>Conditions:</b> Such profit must be credited in reserve account called "SEZ Re-investment Allowance Reserve A/c". <b>Utilisation of such Reserve:</b>

	<ul style="list-style-type: none"> <li>• Such reserve shall be utilised for the purposes of acquiring new machinery or plant, which is first put to use before the expiry of a period of next 3 years following the tax year in which the reserve was created.</li> <li>• Until the acquisition of new machinery or plant, such reserve can be utilised for any purpose of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.</li> </ul>
	<ul style="list-style-type: none"> <li>• The prescribed particulars in the specified Form have been furnished by the assessee in respect of new machinery or plant along with the return of income for the tax year in which such plant or machinery was first put to use.</li> </ul> <p><b>Misutilisation of Reserve:</b> Where any amount credited to such reserve:</p> <ol style="list-style-type: none"> <li>a) Has been misutilised; or</li> <li>b) Has not been utilised before the expiry of the specified period, – then such amount shall be deemed to be the taxable profits of the tax year in which the amount was so misutilised or after the expiry of 3 years, as the case may be.</li> </ol>

**Notes:**

**a) Export turnover means -**

It means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in or brought into, India by the assessee in convertible foreign exchange, within a period of 6 months from the end of the tax year or, within such further period as the competent authority may allow in this behalf.

But turnover does not include:

1. Freight, telecommunication charges and insurance attributable to the delivery of the articles or things outside India;
2. Expenses incurred in foreign exchange in providing technical services outside India.

The export proceeds from sale of goods or provision of services shall be deemed to have been received in India where such export turnover is credited to a separate account maintained for that purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

- b) Export means taking goods or providing services out of India from a SEZ by land, sea, air, or by any other mode, whether physical or otherwise.

- c) Profits and gains derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be profits and gains derived from the export of computer software outside India.
- d) Business loss or loss under the head 'Capital Gains' relates to such unit shall be allowed to be carried forward.
- e) The deduction shall be allowed from the total income of the assessee, computed before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.
- f) **Power of Assessing Officer to re-compute profit** – Refer sec. 138
- g) **Consequences of Amalgamation or Demerger** – Where any undertaking is transferred by an Indian company to another Indian company in a scheme of amalgamation or demerger -
- Amalgamating or the demerged company shall not be eligible for deduction under this section from the tax year in which the amalgamation or the demerger takes place; and
  - Amalgamated or the resulting company shall be entitled to deduction under this section from the tax year in which the amalgamation or the demerger takes place in the same manner if the amalgamation or demerger had not taken place.
- h) **Conversion of FTZ into SEZ** – Where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion (i.e. such free trade zone or export processing zone into a special economic zone), the period of 10 consecutive tax years shall be reckoned from the tax year in which the undertaking begins to manufacture or produce such articles or things or computer software in such free trade zone or export processing zone.
- h) Double deduction is not permissible.
- i) Where a deduction under this section is claimed and allowed in respect of profits of any of the specified business, referred to in sec. 46, for any tax year, no deduction shall be allowed under the provisions of section 46 in relation to such specified business for the same or any other tax year.

### **Deduction u/s 145 in respect of profits and gains of business of collecting and processing of bio-degradable waste**

#### **Applicable to**

All assessee

#### **Conditions to be satisfied**

Assessee is engaged in business of collecting and processing or treating of bio-degradable waste for –

- a) generating power; or b) producing bio-fertilizers, bio-pesticides or other biological agents; or c) producing bio-gas; or d) making pellets or briquettes for fuel; or e) organic manure.

**Quantum of deduction**

100% of the profit derived from such business for a period of 5 consecutive years from the year of commencement of such business.

**Deduction u/s 146 in respect of employment of new workmen**

*Available under both tax regimes*

**Applicable to**

Any assessee subject to tax audit under sec. 63

**Conditions to be satisfied**

1. **New Business**: Business is not formed by splitting up, or the reconstruction, of an existing business.  
**Exception**: Refer sec. 140
2. **No business reorganization**: Business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.
3. **Audit**: Books of account should be audited and report thereof should be submitted one month prior to the due date of the filing of the return of income.
4. **Claimed in the return**: No deduction shall be allowed if the deduction has not been claimed in the return of income.

**Quantum of deduction**

30% of additional employee cost incurred in the course of such business in the tax year, for 3 tax years including the tax year in which such employment is provided

**Other Points**

- Return of income is required to be furnished within due date of filing of return as specified u/s 263(1).
- *Additional employee cost* means the total emoluments paid or payable to additional employees employed during the tax year.
  - In the case of an existing business, the additional employee cost shall be nil, if:
    - a. there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;
    - b. emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through other specified electronic modes (Rule 48).
  - In the first year of a new business, emoluments paid<sup>§§</sup> or payable to employees employed during that tax year shall be deemed to be the additional employee cost.
- *Additional employee* means an employee who has been employed during the tax year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include:

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<sup>§§</sup> Paid through an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through other specified electronic modes

- a. an employee whose total emoluments are more than ₹ 25,000 per month; or
- b. an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or
- c. an employee employed for a period of less than 240 days (150 days in case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products) during the tax year; or

**Taxpoint:** Where an employee is employed during the tax year for a period of less than 240 days (or 150 days), but is employed for a period of 240 days (or 150 days) in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year.

- d. an employee who does not participate in the recognised provident fund.

**Taxpoint:** Casual employees do not participate in RPF.

➤ **Emoluments** means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include:

- a. any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and
- b. any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

### **Provision Illustrated**

ABC Ltd., an existing company appoints the following employees during the tax year 2026-27

Case	No. of employees	Date of appointment	Salary (in ₹ per person per month)
1	10	02-May-2026	25,000
2	15	01-June-2026	28,000
3	20	01-March-2027	24,500

Compute deduction u/s 146

### **Solution**

Computation of deduction u/s 146

Case	Total salary (in ₹)	Amount of deduction
1	27,50,000	₹ 8,25,000 i.e., 30% of ₹ 27,50,000
2	42,00,000	Nil as salary exceeds ₹ 25,000 p.m.
3	4,90,000	Nil as employees are not employed for the required number of days during the tax year

### **Provision Illustrated**

ABC Ltd., an existing company appoints 50 employees during the tax year 2026-27, details are as under

No. of Employees	Salary p.m.	No. of days employed	Participation in RPF	Mode of payment
25	20,000	Out of 25, 2 were employed for less than 240 days	5 employees do not participate in RPF	Through Electronic mode
25	30,000	Out of 25, 5 were employed for less than 240 days	2 employees do not participate in RPF	Out of 25, salary to 2 employees paid in cash

Compute deduction u/s 146

**Solution**

Calculation of number of eligible additional employees

Particular	No. of Employees
Total no. of employees	50
Less: Employees whose emoluments are more than ₹ 25,000/-	(25)
Less: Employees who do not participate in RPF (out of those whose salary is ₹ 20,000/-)	(5)
Less: Employees who employed less than 240 days (out of those whose salary is ₹ 20,000/-)	(2)
<b>No. of eligible additional employees</b>	<b>18</b>

Deduction u/s 140 = 30% of [₹ 20,000 x 18 x 12] = ₹ 12,96,000

### Deduction u/s 147 in respect of certain incomes of Offshore Banking Units

**Applicable to**

- A scheduled bank or foreign bank having an Offshore banking unit in SEZ.
- Unit of an International Financial Services Center.

**Conditions to be satisfied**

1. **Certificate of a chartered accountant:** Assessee must furnish along with the return of income, a report of an accountant in Form 35 (Rule 69), certifying that the deduction has been correctly claimed.
2. **Submission of permission:** A copy of the permission obtained u/s 23(1)(a) of the Banking Regulation Act, 1949 or copy of permission or registration obtained under the International Financial Services Centre Authority Act, 2019 is required to be furnished along with the return of income.
3. **New Unit commencing from 01-04-2026:** Such unit is not formed by splitting up or reconstruction or reorganisation or transfer of a business already in existence in India

**Quantum of deduction**

*In case of a scheduled bank or foreign bank having an Offshore banking unit in SEZ*

- For 20 consecutive tax years beginning from the tax year in which permission u/s 23(1)(a) of the Banking Regulation Act, 1949, or permission or registration under the Securities and Exchange Board of India Act, 1992 or any other relevant law in force was obtained	100% of the income
<u><i>In any other case</i></u>	
- For 20 consecutive tax years out of 25 years (at the option of the assessee) beginning from the tax year in which permission u/s 23(1)(a) of the Banking Regulation Act, 1949, or permission or registration under the SEBI Act, 1992, or permission or registration under the International Financial Services Centres Authority Act, 2019 was obtained	100% of the income
Income here means – (a) Income from an offshore banking unit in a SEZ; (b) Income from the business referred in Sec. 6(1) of the Banking Regulation Act, 1949 with an undertaking located in a SEZ or any other undertaking which develops or develops and operates or operates and maintains a SEZ; (c) Income from approved business activities of any Unit of the International Financial Services Centre set up in a Special Economic Zone; (d) Income from the transfer of an asset being, an aircraft or a ship, leased by a unit referred above if such unit has commenced operation on or before 31-03-2030.	

## Deduction in respect of inter-corporate dividend [Sec. 148]

### Applicable to

Domestic Company

### Conditions to be satisfied

- a. **Dividend Income**: Gross total income of the assessee includes any income by way of dividends from any other domestic company or a foreign company or a business trust.
- b. **Dividend Distribution**: Assessee distributes dividend among its shareholder within due date
  - *Due date* means the date one month prior to the due date for furnishing the return of income.

### Quantum of Deduction

Minimum of the following:

- (a) Dividend so received by the assessee; or
- (b) Dividend distributed by the assessee within due date

### Other Points

**No Double Deduction**: Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed in any tax year, no deduction shall be allowed in respect of such amount in any other tax year.

## Deduction u/s 149 in respect of co-operative societies

### Applicable to

A co-operative society

### Quantum of Deduction

Income derived from	Deduction
Specified Activities <sup>1</sup>	100% of income from such activities
Activity other than specified activities	<ul style="list-style-type: none"> <li>Assessee is a consumers' co-operative society ₹ 1,00,000</li> </ul>
	<ul style="list-style-type: none"> <li>In any other case ₹ 50,000</li> </ul>
Following income of any co-operative society is also deductible - <ul style="list-style-type: none"> <li>Interest or dividends from its investments with any other co-operative society;</li> <li>Letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities; and</li> <li>Interest on securities or any income from house property, provided certain conditions are satisfied<sup>2</sup></li> </ul>	

**Taxpoint:** The deduction u/s 149 shall be allowed only if such deduction is claimed in the return of income. Further, return of income should be submitted within due date.

### <sup>1.</sup> Specified Activities

- a. Banking business or providing credit facilities to its members; or  
However, deduction shall not be available to any co-operative bank other than a primary agricultural credit society or a primary co-operative and rural development bank.
- b. Cottage industry; or
- c. Marketing of the agricultural produce grown by its members; or
- d. Purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or
- e. Processing, without the aid of power, of the agricultural produce of its members; or
- f. Collective disposal of the labour of its members; or
- g. Fishing or allied activities like catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members
- h. Supplying milk, oilseeds, cotton seed, cattle feed, fruits or vegetables raised or grown by its members to (only in the case of a primary society):
  - (i) A federal co-operative society, being a society engaged in the business of supplying milk, oilseeds, cotton seed, cattle feed, fruits or vegetables; or

- (ii) The Government or a local authority; or
- (iii) A Government company or corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk, oilseeds, cotton seed, cattle feed, fruits or vegetables, as the case may be, to the public).

**Note**

In case of a co-operative society engaged in activities referred in (f) and (g), the deduction is available only when the rules & bye-laws of such society restrict the voting rights to the following classes of its members -

- a) The individuals who contribute their labour or, as the case may be, carry on the fishing or allied activities;
- b) The co-operative credit societies which provide financial assistance to the society; or
- c) The State Government.

**2. Conditions to be satisfied**

- a) Co-operative society must not be -
  - i. A housing society; or
  - ii. An urban consumers' society; or
  - iii. A society carrying on transport business; or
  - iv. A society engaged in any manufacturing operations with the aid of power.
- b) Gross total income of such society does not exceed ₹ 20,000.

**Notes**

- a) Consumers' co-operative society means a society for the benefit of the consumers.
- b) Urban consumers' co-operative society means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment.
- c) Primary co-operative agricultural and rural development bank means a society having an area of operation confined to a taluk, the principal object of which is to provide long-term credit for agricultural and rural development activities
- d) In case, where the assessee is also entitled to deduction u/s 138, the deduction u/s 149 shall be allowed after allowing deduction under aforesaid section.

**Deduction u/s 150 in respect of income of federal co-operative****Applicable to**

Federal co-operative

**Conditions to be satisfied**

Gross total income of a federal co-operative includes any income by way of dividends received from its investment with any company

Dividend arisen from such investment as recorded in its books of account on or before 31-01-2026

### Quantum of deduction

To the extent dividend has been distributed by it to its members at least one month before the due date for filing the return of income u/s 263(1)

**Taxpoint:** The provisions of this section shall not apply to any tax year beginning on or after 01-04-2029.

## Deduction u/s 151 in respect of royalty income of authors of books

*Not Available under the default tax regime*

### Applicable to

A resident individual (irrespective of his citizenship)

### Conditions to be satisfied

1. **Profession of assessee:** Assessee is an author or joint author of a book.
2. **Nature of book:** The book should be a work of literary, artistic or scientific nature. It shall not include brochures, commentaries, diaries, guides, magazines, journals, newspapers, pamphlets, text-books for school, tracts and other publications of similar nature, by whatever name called.
3. **Nature of income:** Gross total income of the assessee includes any income by way of:
  - (a) any lump sum consideration for the assignment or grant of any of his interest in the copyright of book; or
  - (b) royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of the book. earned in India or earned from any source outside India.

**Taxpoint:** Consideration includes advance receipt of such nature, which is not returnable.

However, when such income is earned from a source outside India then –

- **Remittance:** Such receipts should be brought into India by the assessee in convertible foreign exchange<sup>#</sup> within 6 months from the end of the tax year or within such further period as the competent authority\* may allow in this behalf; and
- **Certificate:** The assessee must furnish a certificate (obtained from the prescribed authority) along with his return of income.

<sup>#</sup> *Convertible foreign exchange* means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Regulation Act, 1973 and any rules made thereunder.

*Competent authority* means the Reserve Bank of India or such other authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.

4. **Report:** Assessee must furnish a certificate along with the return of income in Form 36 (Rule 70) duly verified by the person responsible for making such payment to the assessee.

### Quantum of deduction

Deduction in case of lump sum royalty in lieu of all rights of the assessee in the book

Minimum of the following –

- a. 100% of such income; or
- b. ₹ 3,00,000

*Deduction in other case –*

Case 1	Case 2
Royalty or fee is not more than 15% of value of the book	Royalty or fee is more than 15% of value of the book
Minimum of the following – <ul style="list-style-type: none"> <li>● 100% of such income; or</li> <li>● ₹ 3,00,000</li> </ul>	Minimum of the following – <ul style="list-style-type: none"> <li>● 100% of such income considering the royalty as 15% of value of book sold; or</li> <li>● ₹ 3,00,000</li> </ul>

**Taxpoint:** In case of royalty or copyright fees i.e. not a lump sum consideration, deduction shall be restricted to 15% of the value of books (before allowing expenses attributable to such income) sold during the tax year.

**Computation of deduction**

Income	Deduction
Income received in Lump sum	
Income earned in India	Minimum of the following – <ol style="list-style-type: none"> <li>a) 100% of such income (Receipts – Expenditure relating to such income)</li> <li>b) ₹ 3,00,000</li> </ol>
Income earned outside India	Minimum of the following – <ol style="list-style-type: none"> <li>a) Money brought into India in convertible foreign exchange within time limit – Expenditure incurred relating to such income</li> <li>b) ₹ 3,00,000</li> </ol>
Income received in a mode other than lump sum	
Income earned in India	Minimum of the following - <ol style="list-style-type: none"> <li>a) 100% of income (Receipts – Expenditure relating to such income)</li> <li>b) 15% of sale value of the book – Expenditure relating to such income</li> <li>c) ₹ 3,00,000</li> </ol>
	Minimum of the following -

Income earned outside India	<p>a) Money brought in India in convertible foreign exchange within time limit– Expenditure incurred relating to such income</p> <p>b) 15% of sale value of the book – Expenditure incurred relating to such income</p> <p>c) ₹ 3,00,000</p>
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**Other point**

- a) Double deduction is not allowed
- b) Return of income should be furnished within due date
- c) No deduction shall be allowed if the deduction has not been claimed in the return of income.

**Deduction u/s 152 in respect of royalty on patents**

*Not Available under the default tax regime*

**Applicable to**

A resident individual (irrespective of citizenship of the individual), being a patentee (i.e. owner or co-owner of a patent)

**Patentee** means true and first inventor recorded as the patentee under the Patent Act, 1970, including joint patentees recorded as such true and first inventors.

**Conditions to be satisfied**

1. **Nature of income:** Assessee has earned income (either in India or outside India) by way of royalty in respect of patent registered on or after 1-4-2003 under the Patents Act, 1970.

**Taxpoint:**

- Royalty, in respect of a patent, means consideration (including any lump sum consideration) for—
  - i) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or
  - ii) the imparting of any information concerning the working of, or the use of, a patent; or
  - iii) the use of any patent; or
  - iv) the rendering of any services in connection with the activities referred above.
- *It includes advance royalty, which is not refundable.*
- *It does not include -*
  - a. *any capital sum received for sale of patent, which is chargeable under the head Capital gains*
  - b. *consideration for sale of product manufactured with the use of patented process or of the patented article for commercial use .*

However, when such income is earned from a source outside India, then –

- **Remittance:** Such receipts should be brought into India by the assessee in convertible foreign exchange<sup>#</sup> within 6 months from the end of the tax year or

within such further period as the competent authority\* may allow in this behalf; and

- **Certificate:** The assessee must furnish a certificate in Form 38 (Rule 72) from the prescribed authority along with his return of income

# *Convertible foreign exchange* means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Regulation Act, 1973 and any rules made there under.

\* *Competent authority* means the Reserve Bank of India or such other authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.

2. **Certificate to be attached:** Assessee must furnish a certificate in Form 37 (Rule 71) duly signed by the prescribed authority along with the return of income.

*Prescribed authority* here means Controller u/s 1(b) of the Patent Act, 1970

### **Quantum of deduction**

Case	Deduction
Income earned in India	Minimum of the following - <ul style="list-style-type: none"> <li>• 100% of such income; or</li> <li>• ₹ 3,00,000</li> </ul>
Income earned outside India	Minimum of the following - <ul style="list-style-type: none"> <li>• Income in respect of money brought into India in convertible foreign exchange within prescribed time limit; or</li> <li>• ₹ 3,00,000</li> </ul>
<p><b><u>Deduction should not exceed the royalty amount as per licence:</u></b> Where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act.</p>	

### **Notes**

- a) Double deduction is not permissible
- b) Return of income in time
- c) No deduction shall be allowed if the deduction has not been claimed in the return of income.

## **Deduction for interest on deposits [Sec. 153]**

*Not Available under the default tax regime*

### **Applicable to**

An individual or a Hindu Undivided Family

### **Conditions to be satisfied**

Gross total income of an assessee includes any income by way of interest on deposits in a savings account with:

- a banking company;
- a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or
- a Post Office

**Quantum of deduction**

In case of senior citizen	Other assessee
Minimum of the following <b>a.</b> Interest on such deposits including time deposits <b>b.</b> ₹ 50,000	Minimum of the following <b>c.</b> Interest on such deposits in saving account (excluding time deposits) <b>d.</b> ₹ 10,000

**Other Points**

- ✿ As per Notification No. 32/2011 dated 03-06-2011, interest on Post Office Saving Bank is exempt u/s Schedule II (Table S. No. 11) [old 10(15(i))] to the extent of the interest of ₹ 3,500 (in case of single account) and ₹ 7,000 (in case of joint account)
- ✿ Where such income is derived from any deposit held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.
- ✿ Time Deposits means the deposits repayable on expiry of fixed periods.

**Deduction u/s 154 in respect of person with disability**

*Not Available under the default tax regime*

**Applicable to**

A resident individual (irrespective of citizenship of the individual)

**Conditions to be satisfied**

1. **Assessee is a disable-individual:** Assessee, at any time during the tax year, is certified by the medical authority to be a person with disability.
2. **Report:** Assessee must furnish a copy of the certificate issued by the medical authority in the prescribed form (Form 30 – Rule 61) along with the return of income, in respect of the tax year for which the deduction has been claimed.

**Quantum of Deduction**

Assessee is suffering from severe disability (i.e. disability to the extent of 80% or more)	₹ 1,25,000
Assessee is suffering from disability but not severe disability (i.e. disability to the extent of 40% or more but less than 80%)	₹ 75,000
<i>Deduction under this section is irrespective of actual expenditure incurred i.e. deduction is statutory.</i>	



*Disability, Person with disability and Person with severe disability: Refer Sec. 127*

**Other points**

**Revision of medical certificate**

**Condition:** Where the extent of disability requires reassessment after a period stipulated in the aforesaid certificate.

**Treatment:** After the expiry of previous certificate, deduction under this section shall be allowed only if a new certificate is obtained from the medical authority and a copy thereof is furnished along with the return of income.

**Note:** *Deduction u/s 154 is for disable-assessee whereas deduction u/s 127 is for dependant disable-relative*

# RELIEF

When an assessee is charged for -

- Arrear or Advance salary; or
- Gratuity, Commuted pension, etc.

- then he may fall under higher rate of tax (of progressive tax-slab) e.g. instead of 20% he may have to pay tax @ 30%. To compensate aggrieved assessee from such higher rate, sec. 157 provides for 'Relief'.

## **Relief when salary, etc., is paid in arrears or in advance [Sec. 157]**

**Applicable to:** An assessee, who is in receipt of –

- a) Arrear salary or Advance salary or in any other way is in receipt, in any one tax year of salary for more than 12 months; or
- b) Profit in lieu of salary u/s 18(1); or
- c) Arrear of family pension

**Note:** No relief shall be granted on any income on which deduction has been claimed by the assessee in sec. 19(1)(Table: Sl. No. 12) [Deduction from VRS Compensation received] for any amount mentioned therein, for such, or any other, tax year.

### **Conditions to be satisfied**

- **Charged at higher rate:** Due to above receipt, total income of the assessee is assessed at a rate higher than that at which it would otherwise have been assessed.
- **Apply to Assessing Officer:** Assessee has made an application in this behalf to the Assessing Officer [in Form 39] on or before the due date of filing return of income

### **Quantum of Relief:**

As computed by method provided in Rule 73

**Taxpoint:** Where the assessee, being a Government servant or an employee in a company, co-operative society, local authority, university, institution, association or body, is entitled to relief u/s 157, he may furnish the particulars specified in Form 39 to the person responsible for making the payment referred to in sec. 392(1).

### **Method of calculation of relief [Rule 73]**

Where any portion of salary/family pension is received in arrears or in advance (hereinafter referred as additional salary), following steps are to be followed for calculating relief –

Step	Particulars
1	Calculate the tax payable for the tax year in which such additional salary is received, on: 1(a) Total income including additional salary 1(b) Total income excluding additional salary
2	Calculate the tax payable for the tax year to which such additional salary relates, on – 2(a) Total income including additional salary 2(b) Total income excluding additional salary
3	a) Add tax calculated on 1(a) and 2(b) = Tax on receipt basis b) Add tax calculated on 1(b) and 2(a) = Tax on accrual basis
4	Relief u/s 157 = Tax on receipt basis – Tax on accrual basis

### **Illustration 1**

Mr. Sai, an employee, furnishes the following particulars for tax year ending on 31-3-2027:

- |  |             |
|--|-------------|
| a) Salary income as computed (after all deduction) for the year                                    | ₹ 25,07,000 |
| b) During the year, arrear of bonus were received (not included above) related to tax year 2018-19 | ₹ 50,000    |
| c) Assessed income of tax year 2018-19 (consists of salary only)                                   | ₹ 9,56,000  |
| d) On 25-3-2027, amount deposited in PPF A/c   | ₹ 50,000    |
| e) Income from other sources for the tax year 2026-27  | ₹ 50,000    |

You are requested to compute relief u/s 157 in terms of tax payable. The rates for the tax year 2018-19 are:

On first ₹ 2,50,000	- Nil
On next ₹ 2,50,000	- 5%
On next ₹ 5,00,000	- 20%
On balance	- 30%

4% HEC is also applicable

### **Solution**

Computation of total income and tax liability

Particulars	Tax Year 2026-27		Tax Year 2018-19	
	Including arrear bonus	Excluding arrear bonus	Including arrear bonus	Excluding arrear bonus
	Col. 1(a)	Col. 1(b)	Col. 2(a)	Col. 2(b)
Salary	25,07,000	25,07,000	9,56,000	9,56,000
Arrear salary	50,000	-	50,000	-
Taxable salary	25,57,000	25,07,000	10,06,000	9,56,000
Other income	50,000	50,000	Nil	Nil
Gross Total income	26,07,000	25,57,000	10,06,000	9,56,000

Less: Deduction u/s 123	NA	NA	Nil	Nil
Total income	26,07,000	25,57,000	10,06,000	9,56,000
Tax (including cess)	3,76,584	3,60,984	1,18,872	1,07,848

Computation of relief u/s 157

Particulars	Amount	Amount
<b>Tax on receipt basis</b>		
Tax calculated in Col. 1(a)		3,76,584
Tax calculated in Col. 2(b)		1,07,848
		4,84,432
<b>Less: Tax on accrual basis</b>		
Tax calculated in Col. 1(b)	3,60,984	
Tax calculated in Col. 2(a)	1,18,872	4,79,856
<b>Relief u/s 89(1)</b>		<b>4,576</b>

Hence, tax liability for tax year 2026-27 is ₹ 3,72,010 (i.e. ₹ 3,76,584 – ₹ 4,576). i.e., ₹ 3,72,010 (after rounding off u/s 516)

***Relief when payment is in the nature of taxable gratuity***

**Where past services extend over a period of fifteen years**

	Particulars
1	Calculate total income and tax liability considering taxable gratuity of the relevant tax year.
2	Calculate total income and tax on total income in respect of each of the 3 tax years immediately preceding the relevant tax year, adding 1/3 <sup>rd</sup> of the taxable gratuity in each of the 3 years.
3	Calculate average rate of tax for each year. Average rate of tax (in %) = $\frac{\text{Tax, surcharge and cess after rebate of respective year}}{\text{Total Income}} \times 100$
4	Calculate average of “average rate of tax” of 3 tax years immediately preceding the relevant tax year.
5	Calculate tax on taxable gratuity by applying average rate of tax of the relevant tax year.
6	Calculate tax on taxable gratuity by applying average of average rate of tax (as computed in step 4)
7	Relief u/s 157 = Tax as per Step 5 – Tax as per Step 6

**Illustration 2**

During the tax year, Shri Prajapati received from his employer ₹ 2,00,000 as gratuity, out of which ₹ 1,10,000 is deductible u/s 19. His relevant data of last few tax years are as follows:

Tax Year >>	2026-27	2025-26	2024-25	2023-24
Basic salary	₹ 24,46,000	₹ 8,70,000	₹ 7,70,000	₹ 6,65,000
Income from House property	₹ 41,000	₹ 18,000	₹ 20,000	₹ 20,000
Regime	Default	Old	Old	Old

Compute relief u/s 157.

### **Solution**

Computation of Relief u/s 157 and tax liability for tax year 2026-27

Particulars	Amount	Amount
Tax liability after cess but before relief u/s 157		3,43,824
<i>Less: Relief u/s 157</i>		
Tax on taxable gratuity @ Average rate of tax of tax year 2026-27 (₹ 90,000 * 13.74% <sup>1</sup> )	12,366	
Tax on taxable gratuity @ Average of average tax of last 3 tax year (₹ 90,000 * 8.81% <sup>1</sup> )	7,929	(4,437)
<b>Tax liability (Rounded off u/s 516)</b>		<b>3,39,390</b>

### **<sup>1</sup> Working:**

Particulars	2026-27	2025-26	2024-25	2023-24
Basic	24,46,000	8,70,000	7,70,000	6,65,000
Taxable Gratuity	90,000	30,000	30,000	30,000
Gross salary	25,36,000	9,00,000	8,00,000	6,95,000
<i>Less: Standard Deduction</i>	75,000	50,000	50,000	50,000
Taxable Salary	24,61,000	8,50,000	7,50,000	6,45,000
Income from house property	41,000	18,000	20,000	20,000
Gross total income	25,02,000	8,68,000	7,70,000	6,65,000
<i>Less: Deduction</i>	-	-	-	-
Total income	25,02,000	8,68,000	7,70,000	6,65,000
Tax on above	3,30,600	86,100	66,500	45,500
<i>Less: Rebate u/s 156</i>	Nil	Nil	Nil	Nil
Tax after Rebate	3,30,600	86,100	66,500	45,500
<i>Add: Health and Education Cess</i>	13,324	3,444	2,660	1,820
Tax liability	3,43,824	89,544	69,160	47,320
Average tax on total income (Tax liability / Total income)	13.74%	10.32%	8.98%	7.12%
Average of average tax of last three tax year			8.81%	

### **Where past services extend over a period of 5 years but does not exceed 15 years**

In this case, the calculation of relief u/s 157 is same as in case of service extending over 15 years, with only exception that instead of taking average of tax-rate of 3 years, take average tax-rate of 2 years. Similarly, taxable gratuity shall be divided in past 2 years rather than 3 years. Further, following table can be referred:

<b>Particulars</b>	
<b>1</b>	Calculate total income and tax on total income considering taxable gratuity of the relevant tax year.
<b>2</b>	Calculate total income and tax on total income in respect of each of the 2 tax years immediately preceding the relevant tax year, adding 1/2 of the taxable gratuity in each of the 2 years.
<b>3</b>	Calculate average rate of tax for each year. Average rate of tax (in %) = $\frac{\text{Tax, surcharge and cess after rebate of respective year} * 100}{\text{Total Income}}$
<b>4</b>	Calculate average of “average rate of tax” of 2 tax years immediately preceding the relevant tax year.
<b>5</b>	Calculate tax on taxable gratuity by applying average rate of tax of the relevant tax year.
<b>6</b>	Calculate tax on taxable gratuity by applying average of average rate of tax (as computed in step 4)
<b>7</b>	Relief u/s 157 = Tax as per Step 5 – Tax as per Step 6

**Where past services do not extend over five years**

Relief u/s 157 is not applicable.

**Relief when payment is in the nature of compensation on termination of employment**

Any compensation received by the assessee from his employer on termination of his employment is eligible for relief u/s 157 subject to following conditions –

- a. Employment is terminated after continuous service for not less than 3 years; **and**
- b. The unexpired portion of term of employment is also not less than 3 years.

**Method of calculating relief:** In this case, calculation of relief u/s 157 is same as in case of gratuity (where service extends over 15 years).

However, where assessee claims deduction u/s 19 [Table S. No. 12], relief u/s 157 is not available to the assessee for such compensation.

**Relief when payment is in the nature of commutation of pension**

In this case, calculation of relief u/s 157 is same as in case of gratuity (where service extends over 15 years).

**Relief in case of other payments**

In any other case, the Board may grant relief after examining circumstances of the case.

## Section Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Deductions to be made in computing total income	80A / 80AB / 80AC / 80B	122
Deduction for life insurance premia, deferred annuity, contributions to provident fund, etc.	80C / 80CCC / 80CE	123
Deduction in respect of employer and assessee contribution to pension scheme of Central Government	80CCD	124
Deduction in respect of contribution to <i>Agnipath</i> Scheme	80CCH	125
Deduction in respect of health insurance premia	80D	126
Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability	80DD	127
Deduction in respect of medical treatment, etc.	80DDB	128
Deduction in respect of interest on loan taken for higher education	80E	129
Deduction in respect of interest on loan taken for residential house property	80EE	130
Deduction in respect of interest on loan taken for certain house property	80EEA	131
Deduction in respect of purchase of electric vehicle	80EEB	132
Deduction in respect of donations to certain funds, charitable institutions, etc.	80G	133
Deductions in respect of rents paid	80GG	134
Deduction in respect of certain donations for scientific research or rural development	80GGA	135
Deduction in respect of contributions given by companies to political parties	80GGB	136
Deduction in respect of contributions given by any person to political parties	80GGC	137
Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.	80-IA	138
Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone	80-IAB	139
Special provision in respect of specified business	80-IAC	140

Deduction in respect of profits and gains from certain industrial undertakings	80-IB	141
Deductions in respect of profits and gains from housing projects	80-IBA	142
Special provisions in respect of certain undertakings in North-Eastern States	80-IE	143
Special provisions in respect of newly established Units in Special Economic Zones	10AA	144
Deduction for businesses engaged in collecting and processing of bio-degradable waste	80JJA	145
Deduction in respect of additional employee cost	80JJAA	146
Deductions for income of Offshore Banking Units and Units of International Financial Services Centre	80LA	147
Deduction in respect of certain inter-corporate dividends	80M	148
Deduction in respect of income of co-operative societies	80P	149
Deduction in respect of income of federal co-operative	—	150
Deduction in respect of royalty income, etc., of authors of certain books other than text-books	80QQB	151
Deduction in respect of royalty on patents	80RRB	152
Deduction for interest on Deposits	80TTA / 80TTB	153
Deduction in case of a person with disability	80U	154
Relief when salary, etc., is paid in arrears or in advance	89	157



# ADVANCE TAX

## ***Applicable to***

All assessee irrespective of his residential status and citizenship

## ***Scheme of Advance tax [Sec. 404]***

Where the advance tax liability<sup>#</sup> of the assessee is ₹ 10,000 or more, the assessee should pay such tax in the tax year itself within the due date<sup>S</sup>.

## **# Advance tax liability [Sec. 405]**

Particulars	Amount
Estimated Gross Total Income	****
<i>Less:</i> Deduction under chapter VIII as per regime opted by the assessee	****
Estimated Total Income	****
Gross tax liability on Estimated Total Income	****
<i>Less:</i> Rebate u/s 156 as per regime opted by the assessee	**
Tax liability after Rebate	****
<i>Add:</i> Surcharge (if applicable)	****
Tax and surcharge payable	****
<i>Add:</i> Health & Education cess	****
Tax liability after cess	****
<i>Less:</i> Tax deducted or collected at source	****
<b>Advance tax liability</b>	****

<sup>s</sup> **Due date for payment of advance tax [Sec. 408]**

<b>Assessee</b>	<b>Due date of installment (of tax year)</b>	<b>Minimum amount payable</b>
An eligible assessee in respect of an eligible business or profession referred to in sec. 58(2) [Table S. No. 1 & 3]	On or before March 15	100% of advance tax liability
Other Assessee	On or before June 15	Upto 15% of advance tax liability
	On or before September 15	Upto 45% of advance tax liability
	On or before December 15	Upto 75% of advance tax liability
	On or before March 15	Upto 100% of advance tax liability

**Notes**

- a) Any amount paid u/s 408 on or before 31st March of the tax year, shall be treated as advance tax paid during the tax year.
- b) Where an assessee is a senior citizen and does not have any income chargeable under the head "Profits and gains of business or profession", provision of advance tax is not applicable. In other words, senior citizen not having business income is not liable to pay advance tax.
- c) While calculating advance tax, net agricultural income shall also be taken into consideration for computing tax liability.
- d) If any assessee does not pay any installment within due date he shall be deemed to be an assessee in default in respect of such installment [Sec. 409]
- e) Any sum, other than a penalty or interest, paid by an assessee as advance tax shall be treated as a payment of tax and credit for such shall be given to the assessee in the regular assessment [Sec. 410]

## Procedure to pay Advance Tax

### A. On assessee's own motion [Sec. 406]

#### *Procedure for 1st installment*

1. Make an estimate of current year's income, considering brought-forward losses, after deducting all allowable deductions under chapter VIII, if any.

**Note:** The estimate is not required to be filed with the tax authorities.

2. Compute the tax liability on above estimated income at the rates in force during the financial year and reduce rebate, if any.
3. Add surcharge (if applicable).
4. Add Health and Education cess.
5. Deduct tax deducted or collected at source.
6. The amount so derived is the advance tax payable.

Where the advance tax payable is ₹ 10,000 or more, an appropriate percentage thereof should be deposited.

#### *Procedure for subsequent installments*

1. Check if estimate of income made earlier requires revision.
2. If not, deposit appropriate amount of second, third or fourth installment of advance tax.
3. If estimate of income needs revision, then make a revised estimate and compute tax liability thereon.
4. Determine advance tax payable in subsequent installments after deducting amount paid in earlier installments.
5. Deposit such advance tax.

### B. On receipt of order from the Assessing Officer [Sec. 407]

The A.O. may pass an order and issue a notice of demand u/s 289 requiring the assessee to pay advance tax.

#### Conditions to be satisfied for issuing such order

- The assessee has already been assessed by way of a regular assessment in any tax year.
- The Assessing Officer is of opinion that such person is liable to pay advance tax.
- Such order can be passed at any time during the financial year but not after last day of February.
- Such order must be made in writing.
- Such order also specifies the amount of advance tax and the installments thereof to be paid by the assessee.

**Note:** Such order can be issued even if assessee has paid any installment of advance tax during the year, which is, in the opinion of the Assessing Officer, not as per provision of sec. 405.

**Determination of advance tax by the Assessing Officer**

The income (on which advance tax shall be computed by him) considered by the Assessing Officer shall be the higher of the following –

- Total Income as per latest regular assessment; or
- Total income declared by the assessee in the return relating to the tax year subsequent to the tax year for which regular assessment has been made.

**Procedure to be followed by assessee on receipt of such order**

Case	Advance tax to be paid by the assessee	Whether intimation to AO is required
Where income estimated by the Assessing Officer is correct	On the basis of the order of the Assessing Officer	No
Where assessee estimates his current income to be higher than that estimated by the Assessing Officer	On the basis of his own estimate	No
Where assessee estimates his current income to be lower than that estimated by the Assessing Officer	On the basis of his own estimate	Yes, assessee shall submit his own estimate of current income to the AO (in Form 152 – Rule 223)

**Note:** As per sec. 407(4), Assessing Officer can revise his order to pay advance tax at any time before 1<sup>st</sup> March of the relevant tax year.

**Interest on non-payment of advance tax**

Where an assessee fails to pay advance tax or defer the payment of advance tax on specified date, he shall be liable to pay interest u/s 424 & 425.

**Illustration 1**

Find out the amount of advance tax payable by Mr. A on specified dates for the tax year 2026-27:

Business income	₹ 14,85,000
Long term capital gain on 31-5-2026	₹ 60,000

Winning from lotteries on 12-6-2026	₹ 50,000
Interest on loan	₹ 10,000
Other income	₹ 5,000
Investment in PPF	₹ 10,000
Tax deducted at source:	
<b>Case 1</b>	₹ 1,30,000
<b>Case 2</b>	₹ 32,600

**Solution**

Computation of total income of Mr. A for the tax year 2026-27

Particulars	Details	Amount
Profits and gains of business or profession		14,85,000
Capital gains: Long term capital gains		60,000
<u>Income from other sources</u>		
Winning from lotteries	50,000	
Interest on loan	10,000	
Other income	5,000	65,000
Gross Total Income		16,10,000
Less: Deduction u/s 123		NA
<b>Total Income</b>		<b>16,10,000</b>

Computation of tax liability of Mr. A for the tax year 2026-27

Income	Case 1	Case 2
Long term capital gain (₹ 60,000 @ 12.5%)	7,500	7,500
Winning from lotteries (₹ 50,000 @ 30%)	15,000	15,000
Balance income (₹ 15,00,000)	1,05,000	1,05,000
Tax	1,27,500	1,27,500
Less: Rebate u/s 156	Nil	Nil
	1,27,500	1,27,500
Add: Health & Education cess	5,100	5,100
	1,32,600	1,32,600
Less: Tax Deducted at Source	1,30,000	32,600
<b>Total Advance tax payable</b>	<b>3,260</b>	<b>1,00,000</b>

Advance tax to be paid on specified dates –

<b>Case 1:</b> Since amount of advance tax payable is less than ₹ 10,000, assessee is not liable to pay advance tax.				
<b>Case 2:</b>				
Date	Alternate 1		Alternate 2	
	Working	Amount	Working	Amount
15-06-2026	15% of ₹ 1,00,000	15,000	15% of ₹ 1,00,000	15,000
15-09-2026	30% of ₹ 1,00,000	30,000	[(45% of ₹ 1,00,000) – ₹ 15,000]	30,000
15-12-2026	30% of ₹ 1,00,000	30,000	[(75% of ₹ 1,00,000) – (₹ 15,000 + ₹ 30,000)]	30,000
15-03-2027	25% of ₹ 1,00,000	25,000	[100% of ₹ 1,00,000 – (₹ 15,000 + ₹ 30,000 + ₹ 30,000)]	25,000
<b>Total</b>		<b>1,00,000</b>	<b>Total</b>	<b>1,00,000</b>

### Illustration 2

Find out the amount of advance tax payable by A on specified dates for the tax year 2026-27:

Business income (Tax of ₹ 1,61,016 is deducted at source)	₹ 18,25,000
Agricultural income	₹ 86,000

### Solution

Computation of tax liability of A for the tax year 2026-27

Particulars	₹
Tax on ₹ 19,11,000 (i.e. agricultural income ₹ 86,000 + non-agricultural income ₹ 18,25,000)	1,82,200
Less: Tax on ₹ 4,86,000 (i.e. agro income ₹ 86,000 + maximum exempted limit ₹ 4,00,000)	4,300
Tax liability	1,77,900
Less: Rebate u/s 156	Nil
	1,77,900
Add: Health & Education cess	7,116
Tax and cess payable	1,85,016
Less: TDS	1,61,016
<b>Advance tax payable</b>	<b>24,000</b>

Advance tax to be paid on specified dates –

Date	Alternate 1		Alternate 2	
	Working	Amount	Working	Amount
15-06-2026	15% of ₹ 24,000	3,600	15% of ₹ 24,000	3,600
15-09-2026	30% of ₹ 24,000	7,200	[(45% of ₹ 24,000) – ₹ 3,600]	7,200

15-12-2026	30% of ₹ 24,000	7,200	$[(75\% \text{ of } ₹ 24,000) - (₹ 3,600 + ₹ 7,200)]$	7,200
15-03-2027	25% of ₹ 24,000	6,000	$[100\% \text{ of } ₹ 24,000 - (₹ 3,600 + ₹ 7,200 + ₹ 7,200)]$	6,000
<b>Total</b>		<b>24,000</b>	<b>Total</b>	<b>24,000</b>

### Section Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Liability for payment of advance tax	207	403
Conditions of liability to pay advance tax	208	404
Computation of advance tax	209	405
Payment of advance tax by assessee on his own accord	209 / 210	406
Payment of advance tax by assessee in pursuance of order of Assessing Officer	209 / 210 / 211	407
Instalments of advance tax and due dates	211	408
When assessee is deemed to be in default	218	409
Credit for advance tax	219	410



# TAX DEDUCTION AT SOURCE

## Salary and accumulated balance due to an employee [Sec. 392]

### Who is responsible to deduct tax

Any person responsible for paying any income chargeable under the head “Salaries” is required to deduct tax at source.

### When tax shall be deducted

Tax shall be deducted at the time of payment of such income.

### Rate of TDS

Tax shall be deducted at the average rate of tax, computed on basis of prescribed rates in force for the financial year in which payment to employee is made.

### Other Points

Following points shall be kept in mind by the person responsible to deduct tax at source u/s 392-

1. **Maximum exempted limit:** Tax shall not be deducted if taxable salary is less than basic exemption limit.
2. **Payment of tax by the employer:** The employer paying any income in the nature of non-monetary perquisite may pay, at his option, tax on such income without making any deduction therefrom at the time when such tax was otherwise deductible. For this purpose, tax shall be determined at the average of income-tax computed on the basis of the rates in force for the tax year, on the income chargeable under the head “Salaries”. It is to be noted that tax paid on non-monetary perquisites by the employer shall not be considered as income of the employee.
3. **Particulars of perquisites:** The employer shall furnish a statement to the employee (whose salary exceeds ₹ 1,50,000) giving correct and complete particulars of perquisites or profits in lieu of salary provided to employee and the value thereof in Form 123
4. **Salary from more than one source:** As per Sec. 392(4), where assessee is working simultaneously with more than one employer, he may furnish to any one employer at his choice, details (in Form No. 122) of income taxable under the head “Salaries” due to or received by him from other employer(s) and such employer shall deduct tax on aggregate salary.
5. **Treatment of other income:** Where an assessee who receives any income chargeable under the head "Salaries" has, in addition, any income chargeable under any other head of income for the same tax year, he may (or may not) furnish to employer the particulars (in Form 122) of—

- such other income (only income and not loss)
- any tax deducted (or collected) reported by the employee.
- the loss, if any, under the head "Income from house property" (Losses under any other head are not to be considered)

Tax deducted u/s 392 shall be higher of the following:

- Tax deductible from income, that would be so deductible, if loss under the head 'Income from House Property', other income (only income) and the tax deducted (or collected) had been taken into account.
  - Tax deductible from income under the head "Salaries", that would be so deductible (after adjusting loss under the head Income from house property) and the tax deducted (or collected) had been taken into account [other income (or loss) had not been taken into account]
6. **Evidence of claim:** The responsible person shall, for the purposes of estimating income of the assessee or computing tax deductible, obtain the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) from the assessee in Form 124 and manner as may be prescribed.
7. **TDS on ESOP:** ESOPs have been a significant component of the compensation for the employees of start-ups, as it allows the founders and start-ups to employ highly talented employees at a relatively low salary amount with balance being made up via ESOPs. ESOPs are taxed as perquisites u/s 17. The taxation of ESOPs is split into two components:
- i. Tax on perquisite as income from salary at the time of exercise.
  - ii. Tax on income from capital gain at the time of sale.

The tax on perquisite is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind. In order to ease the burden of payment of taxes by the employees of the eligible start-ups or TDS by the start-up employer, it is provided that for the purpose of deducting or paying tax, a person, being an eligible start-up [u/s 140], responsible for paying any income to the assessee being such perquisite, deduct or pay, as the case may be, tax on such income within 14 days:

- a. after the expiry of 60 months from the end of the relevant tax year; or
  - b. from the date of the sale of such specified security or sweat equity share by the assessee; or
  - c. from the date of which the assessee ceases to be the employee of the person;
- whichever is the earlier.

The tax shall be deducted or paid at the rates in force of the tax year in which the said security or sweat equity share is allotted or transferred.

### **Provision Illustrated**

Mr. X working in Y Ltd. furnishes the following, compute the tax to be deducted at source by Y Ltd.

Taxable salary	₹ 25,00,000
Loss from House Property	₹ 5,000

Loss from Business	₹ 10,000
Gross Interest Income (TDS ₹ 5,000)	₹ 60,000
Investment in PPF	₹ 10,000
Tax Regime declared by Mr. X	Default

**Solution**

Computation of tax to be deducted at source by Y Ltd

Particulars	Tax on income including other income	Tax on income excluding other income
Salary income	25,00,000	25,00,000
Loss from House Property	NA	NA
Interest Income	60,000	Nil
Gross Total Income	25,60,000	25,00,000
Less: Deduction u/s 80C [Investment in PPF]	NA	NA
Total Income	25,60,000	25,00,000
Tax on above	3,48,000	3,30,000
Less: Rebate u/s 156	Nil	Nil
Tax after rebate	3,48,000	3,30,000
Add: Health & Education cess @ 4%	13,920	13,200
Tax and cess payable	3,61,920	3,43,200
Less: Tax deducted at source on other income	5,000	5,000
Balance	3,56,920	3,38,200
Tax to be deducted by Y Ltd. (Higher of ₹ 3,56,920 or ₹ 3,38,200)	3,56,920	

**TDS on Payment from Employees Provident Fund [Sec. 392(7)]**

**Who is responsible to deduct tax:** The trustees of the Employees' Provident Fund Scheme, 1952, framed u/s 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees.

**When tax shall be deducted:** At the time of making of payment.

**Tax is deducted on:** The accumulated balance due to an employee participating in a recognised provident fund includible in his total income owing to the not applicability of the provisions of Para 8 of Part A of the Schedule XI

Para 8 of Part A of the Schedule XI provides the accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be exempted:

- if he has rendered continuous service with his employer for a period of 5 years or more; or
- if, though he has not rendered such continuous service, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee; or

- c. if, on the cessation of his employment, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer.
- d. the entire balance standing to the employee's credit is transferred to his account under a pension scheme referred to in sec. 124 and notified by the Central Government

**Taxpoint:** If the accumulated balance paid to the assessee is exempt then tax is not required to be deducted.

**Rate of TDS:** 10%

- Any person entitled to receive any amount on which tax is deductible shall furnish his Permanent Account Number (PAN) to the person responsible for deducting such tax, failing which tax shall be deducted at 20%

**When TDS is not applicable:** Aggregate amount of such payment to the payee is less than ₹ 50,000.

### Tax to be deducted at source from payment to resident [Sec. 393(I)]

The payer is responsible for deducting tax on such income or sum at the prescribed rate. This must be done at the time of:

- Crediting such income or sum to the account of the resident payee; **or**
- Payment (via cash, cheque, draft, or any other mode).
  - **whichever is earlier**

The transactions are listed below:

S.N.	Nature of income or sum	Payer	Rate / Threshold limit
<b>1. Commission or brokerage</b>			
(i)	Any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of insurance policies).	Any person	<b>Rate where payee is:</b> Domestic Company: 10% Other: 2%  <b>Threshold limit:</b> ₹ 20,000
(ii)	Other commission or brokerage [except commission on sale of lottery tickets]	Specified person	<b>Rate:</b> 2%  <b>Threshold limit:</b> ₹ 20,000
	As per sec. 402(7), commission or brokerage includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person, <ol style="list-style-type: none"> <li>a. for services rendered (not being professional services); or</li> <li>b. for any services in the course of buying or selling of goods; or</li> <li>c. in relation to any transaction relating to any asset, valuable article or thing, not being securities</li> </ol>		



<b>2. Rent</b>			
<b>(i)</b>	Any income by way of rent for the use of any land, or building (including factory building), or land appurtenant to a building (including factory building)	Person other than specified person	<p><b>Rate:</b> 2%</p> <p><b>Threshold limit:</b> ₹ 50,000 for a month or part of a month.</p>
<p>1. For serial number 2(i), the tax shall be deducted on such income at the time of:</p> <p style="margin-left: 20px;"><b>a.</b> credit of rent to the account of the payee; or</p> <p style="margin-left: 20px;"><b>b.</b> payment thereof in cash or by way of a cheque or a draft or any other mode, whichever is earlier, for the <b>last month</b> of the <b>tax year</b> or the last month of <b>tenancy</b>.</p> <p>2. Such deduction shall not exceed the amount of rent payable for the last month of the tax year or the last month of the tenancy, as the case may be</p>			
<b>(ii)</b>	Any income by way of rent	Specified person	<p><b>Rate:</b></p> <p style="margin-left: 20px;"><b>a.</b> 2% - for the use of any machinery or plant or equipment</p> <p style="margin-left: 20px;"><b>b.</b> 10% - for the use of any land, or building (including factory building), or land appurtenant to a building (including factory building), or furniture, or fittings</p> <p><b>Threshold limit:</b> ₹ 50,000 for a month or part of a month.</p>
<b>3. Payment on transfer of certain immovable property other than agricultural land</b>			
<b>(i)</b>	Any consideration for transfer of any immovable property (other than agricultural land)	Person [other than the person who are required to deduct tax under serial number 3(iii)]	<p><b>Rate:</b> 1% of higher of:</p> <p style="margin-left: 20px;"><b>a.</b> consideration for transfer of the immovable property; or</p> <p style="margin-left: 20px;"><b>b.</b> stamp duty value of such property</p> <p><b>Threshold limit:</b> Aggregate of all transferors &lt; ₹ 50 lakh</p>
<b>(ii)</b>	Any consideration under the agreement referred to in section	Any person.	<p><b>Rate:</b> 10% of consideration (not being consideration in kind)</p>

	67(14) i.e., Joint Development Agreement		<b>Threshold limit:</b> Nil.
<b>(iii)</b>	Any sum, being in the nature of: a. compensation or the enhanced compensation; or b. consideration or the enhanced consideration, on account of compulsory acquisition of any immovable property (other than agricultural land)	Any person.	<b>Rate:</b> 10%  <b>Threshold limit:</b> ₹ 5,00,000
	<p>➤ In case of consideration on which provisions of both serial numbers 3(i) and 3(ii) are applicable, tax shall be deducted under 3(ii) only.</p> <p>➤ <i>Consideration for transfer of any immovable property</i> shall include all charges of the nature of,</p> <p>a. club membership fee; or b. car parking fee; or c. electricity or water facility fee; or d. maintenance fee; or e. advance fee; or f. or any other charges of similar nature, which are incidental to transfer of the immovable property;</p>		
<b>4. Income from capital market</b>			
<b>(i)</b>	Any income (not capital gain) in respect of: a. units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or b. units from the Administrator of the specified undertaking; or c. units from the specified company	Any person.	<b>Rate:</b> 10%  <b>Threshold limit:</b> ₹ 10,000.
<b>(ii)</b>	Any distributed income referred to in sec. 223, being of the nature referred to in Schedule V (Table: Sl. Nos. 3 and 4), payable to a unitholder of a Business Trust.	Any Business Trust	<b>Rate:</b> 10%  <b>Threshold limit:</b> Nil.
<b>(iii)</b>	Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund	Any investment fund specified in sec. 224	<b>Rate:</b> 10%  <b>Threshold limit:</b> Nil.

	specified in sec. 224, payable to its unitholder.		
(iv)	Any income, in respect of an investment in a securitisation trust specified in sec. 221 to an investor.	Any securitisation trust specified in sec. 221	<b>Rate:</b> 10% <b>Threshold limit:</b> Nil.
<b>5. Interest Income</b>			
(i)	Any income by way of interest on securities.	Any person	<b>Rate:</b> 10% <b>Threshold limit:</b> ₹ 10,000.
(ii)	Any income by way of interest other than interest on securities.	a. Banking company; or b. Co-operative society carrying on the business of banking; or c. Post office for a deposit made under a notified scheme	<b>Rate:</b> 10% <b>Threshold limit:</b> a. Senior citizen: ₹ 1,00,000 b. Other: ₹ 50,000
(iii)	Any income being interest other than interest on securities.	Specified person [other than person referred to above]	<b>Rate:</b> 10% <b>Threshold limit:</b> ₹ 10,000
<p>1. In serial numbers 5(ii) and (iii), where the interest income credited or paid is in respect of—</p> <ol style="list-style-type: none"> <li>time deposits with a banking company; or</li> <li>time deposits with a co-operative society engaged in carrying on the business of banking; or</li> <li>deposits with a public company formed and registered in India with the main object of carrying on business of long-term finance for construction or purchase of houses in India for residential purposes and is eligible for deduction u/s 32(e), and the payer has not adopted core banking solutions, the threshold limit shall be computed with reference to the income credited or paid by a branch of such person.</li> </ol> <p>2. In case of serial number 5(ii) and (iii), the payer may at the time of making any deduction, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.</p>			

<b>6. Payments to contractors, fees for professional and technical services, etc.</b>			
<b>(i)</b>	Any sum for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a designated person <i>Taxpoint:</i> Contract includes sub-contract	Any designated person	<b>Rate:</b> a. 1% - if payee is individual or HUF; b. 2% - other payee  <b>Threshold limit:</b> a. ₹ 30,000, for any such sum; and b. ₹ 1,00,000 in case of aggregate of such sums.
<b>(ii)</b>	Any sum: a. for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or b. by way of fees for professional services; or c. by way of commission [not being insurance commission] or brokerage.	Individual or HUF whose business / professional turnover / gross receipt for the last tax year does not exceed: - Business: ₹ 1 crore - Profession: ₹ 50 lakh	<b>Rate:</b> 2%  <b>Threshold limit:</b> ₹ 50 lakh
<b>(iii)</b>	Any sum by way of a. fees for professional services; or b. fees for technical services; or c. remuneration or fees or commission by whatever name called, other than those on which tax is deductible u/s 392, to a director of a company; or d. royalty; or e. any sum referred to in section 26(2)(h) [i.e., non-compete fee]	Specified person	<b>Rate:</b> 1. 2% in case of i. fees for technical services (not being a professional services); or ii. royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; or iii. payee, engaged only in the business of operation of call centre; 2. 10% in other cases  <b>Threshold limit:</b> - For Director's Fee: Nil

			- Other: ₹ 50,000
	<p>1. <i>Professional services</i> means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as may be notified by the Board for the purposes of this section, or of sec. 62;</p> <p>2. No deduction shall be made under Sl. No. 6(i) and 6(iii) by an individual and HUF where such sum is credited or paid exclusively for personal purposes</p> <p>3. In serial number 6(i), if any sum is paid or credited for carrying out any work specified, tax shall be deducted at source:</p> <p>(a) on the invoice value excluding the value of material, if such value is specified separately in the invoice; or</p> <p>(b) on the whole of the invoice value, if the value of material is not specified separately in the invoice.</p>		
<b>7. Dividend</b>			
	Any dividend (including dividend on preference shares) declared.	Any domestic company.	<p><b>Rate:</b> 10%</p> <p><b>Threshold limit:</b></p> <p>a. ₹ 10,000 - Individual (where payment is made in any mode other than cash)</p> <p>b. Nil for other</p>
TDS shall be made before making any distribution or payment of dividend.			
<b>8. Other cases</b>			
(i)	Any sum under a life insurance policy, including the sum allocated as bonus on such policy, other than the amount not includible in the total income under Schedule II (Table: Sl. No. 2)	Any person	<p><b>Rate:</b> 2% on income comprised in such sum.</p> <p><b>Threshold limit:</b> ₹ 1,00,000</p>
(ii)	Any sum exceeding ₹ 50 lakh for purchase of any goods.	Any person, being a buyer.	<p><b>Rate:</b> 0.1%</p> <p><b>Threshold limit:</b> As per Note 1.</p>
(iii)	Total income of a specified senior citizen after giving effect to deduction allowable under Chapter VIII and rebate allowable u/s 156.	Specified bank.	<p><b>Rate:</b> Rates in force.</p> <p><b>Threshold limit:</b> As applicable.</p>
(iv)	Any benefit or perquisite, whether convertible into money or not, arising from business or	Specified person	<p><b>Rate:</b> 10% of value of such benefit or perquisite.</p>

	the exercise of a profession of any resident.		<b>Threshold limit:</b> ₹ 20,000.
(v)	Any sum on account of sale of goods or provision of services by an e-commerce participant, facilitated by an e-commerce operator through its digital or electronic facility or platform.	Any e-commerce operator	<b>Rate:</b> 0.1% of gross amount of such sale or services or both.  <b>Threshold limit:</b> a. Individual / HUF providing valid PAN - ₹ 5,00,000 b. Other - Nil
	<ul style="list-style-type: none"> <li>➤ <i>electronic commerce</i> means the supply of goods or services, or both, including digital products, over digital or electronic network – sec. 402(12)</li> <li>➤ <i>e-commerce operator</i> means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce – sec. 402(13)</li> <li>➤ <i>e-commerce participant</i> means a person resident in India selling goods or providing services, or both, including digital products, through digital or electronic facility or platform for electronic commerce – sec. 402(14)</li> </ul>		
(vi)	Any sum by way of consideration for transfer of a virtual digital asset.	Any person.	<b>Rate:</b> 1%  <b>Threshold limit:</b> a. When <b>payable</b> by non-specified person - ₹ 50,000 b. For other - ₹ 10,000
	1. The deduction of tax under serial number 8(ii) shall not apply to a transaction on which tax is deductible or collectible under any of the provisions of the Act. Further, it is to be noted that under this serial number, tax shall be deducted on the sum exceeding ₹ 50 lakh		

### Taxpoint

Table S. N.	Taxpoint
	<p><i>Specified person</i> means—</p> <ul style="list-style-type: none"> <li>a. any person, not being an individual or HUF; or</li> <li>b. an individual or HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid</li> </ul>
1(ii)	TDS is not required to be deducted on commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.

<b>2(ii)</b>	TDS is not required to be deducted on income by way of rent credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in Schedule V (Table: Sl. No. 4), owned directly by such business trust.
<b>3(iii)</b>	TDS is not required to be deducted on income by way of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
<b>4(ii)</b>	TDS is not required to be deducted on income of the nature referred to in Schedule V [Table: Sl. No. 3.B(b)], if the special purpose vehicle referred to in the said serial number has not exercised the option u/s 200
<b>5(i)</b>	<p>TDS is not required to be deducted where interest is payable on:</p> <ol style="list-style-type: none"> <li>i. National Development Bonds;</li> <li>ii. Debentures, issued by notified institution or authority or any other person</li> <li>iii. any security of the Central Government or a State Government, other than— <ol style="list-style-type: none"> <li>A. 8% Savings (Taxable) Bonds, 2003; or</li> <li>B. 7.75% Savings (Taxable) Bonds, 2018; or</li> <li>C. Floating Rate Savings Bonds, 2020 (Taxable); or</li> <li>D. any other notified security of the Central Government or State Government</li> </ol> </li> </ol> <p>TDS is not required to be deducted where interest is payable to:</p> <ol style="list-style-type: none"> <li>i. the LIC in respect of any securities owned by it or in which it has full beneficial interest; or</li> <li>ii. the General Insurance Corporation of India or to any of the four companies, in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or</li> <li>iii. any other insurer in respect of any securities owned by it or in which it <ol style="list-style-type: none"> <li>iv. has full beneficial interest; or</li> <li>v. (iv) a business trust in respect of any securities, by a special purpose vehicle referred to in Schedule V (Table: Sl. No. 3).</li> </ol> </li> </ol>
<b>5(ii) &amp; (iii)</b>	TDS is not required to be deducted where interest income credited or paid to:

	<ul style="list-style-type: none"><li>i. any banking company or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank); or</li><li>ii. any financial corporation established by or under a Central Act or State Act or Provincial Act; or</li><li>iii. LIC</li><li>iv. UTI</li><li>v. any company or co-operative society carrying on the business of insurance; or</li><li>vi. such other notified institution, association or body or class of institutions, associations or bodies</li></ul> <p>TDS is not required to be deducted where interest income credited or paid:</p> <ul style="list-style-type: none"><li>i. by a co-operative society other than a co-operative bank, to a member thereof; or</li><li>ii. by a co-operative society to any other co-operative society; or</li><li>iii. in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank; or</li><li>iv. in respect of deposits (other than time deposits made on or after the 1st July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (iii), engaged in the business of banking, except when,—<ul style="list-style-type: none"><li>A. where the total sales, gross receipts or turnover of the co-operative society exceed ₹ 50 crore during the tax year immediately preceding the tax year in which such interest is credited or paid; and</li><li>B. the amount or aggregate of amounts of interest credited or paid exceeds the threshold limit mentioned in section 393(1) (Table: Sl. No. 5(ii)D);</li></ul></li></ul> <p>TDS is not required to be deducted where interest income credited or paid:</p> <ul style="list-style-type: none"><li>i. by the Central Government under taxation law;</li><li>ii. in respect of deposits under any notified scheme</li><li>iii. in respect of deposits (other than time deposits made on or after 01-07-1995) with a banking company;</li><li>iv. on the compensation amount awarded by a Motor Accidents Claims Tribunal:<ul style="list-style-type: none"><li>A. to an individual; or</li></ul></li></ul>
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	<p>B. to a person other than an individual, where the aggregate interest on such compensation does not exceed ₹ 50,000 during the tax year;</p> <p>v. or payable by an infrastructure capital company; or infrastructure capital fund; or infrastructure debt fund; or a public sector company; or scheduled bank in relation to a zero coupon bond issued on or after 01-06-2005 by such company or fund or public sector company or scheduled bank;</p> <p>vi. as referred to in Schedule V (Table: Sl. No. 3);</p> <p>vii. by a firm to a partner of the firm.</p>
<b>6(i)</b>	<p>Designated person, for the purposes of sec. 393(1) [Table: Sl. No. 6 (i)], means:</p> <p>a. the Central Government or any State Government; or</p> <p>b. any local authority; or</p> <p>c. any corporation established by or under a Central Act or State Act or Provincial Act; or</p> <p>d. any company; or</p> <p>e. any co-operative society; or</p> <p>f. any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or</p> <p>g. any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or</p> <p>h. any trust; or</p> <p>i. any University and an institution declared to be a university; or</p> <p>j. any Government of a foreign State or a foreign enterprise or any association or body established outside India; or</p> <p>k. any firm; or</p> <p>l. any person, being an individual or HUF or AOP or BOI, if such person,—</p> <p>i. does not fall under any of the preceding sub-clauses; and</p> <p>ii. has total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the tax year immediately preceding the tax year in which such sum is credited or paid to the account of the contractor;</p>
<b>6(i)</b>	<i>Work shall include:</i>

	<ul style="list-style-type: none"> <li>a. advertising;</li> <li>b. broadcasting and telecasting including production of programmes for such broadcasting or telecasting;</li> <li>c. carriage of goods or passengers by any mode of transport other than by railways;</li> <li>d. catering;</li> <li>e. manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from—                             <ul style="list-style-type: none"> <li>i. such customer; or</li> <li>ii. its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in sec. 36(3),</li> </ul>                             but does not include:                             <ul style="list-style-type: none"> <li>A. manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or</li> <li>B. any sum referred to in section 393(1) [Table: Sl. No. 6(iii)].</li> </ul> </li> <li>f. supply of manpower to a person to work under his supervision, control or direction.</li> </ul>
<b>6(i)</b>	TDS is not required to be deducted where: <ul style="list-style-type: none"> <li>i. any sum credited or paid or likely to be credited or paid during the tax year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages; and</li> <li>ii. that contractor owns 10 or less goods carriages at any time during the tax year; and</li> <li>iii. furnishes a declaration to that effect along with his PAN to the person paying or crediting the sum; and</li> <li>iv. the person responsible for paying to the contractor furnishes to the prescribed income-tax authority the particulars in such form and within such time as may be prescribed;</li> </ul>
<b>7</b>	TDS is not required to be deducted on dividend income credited or paid to: <ul style="list-style-type: none"> <li>a. LIC, in respect of any shares owned by it or in which it has full beneficial interest</li> <li>b. the General Insurance Corporation of India or to any of the four companies, in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest;</li> </ul>

	<p>c. any other insurer in respect of any shares owned by it or in which it has full beneficial interest;</p> <p>d. a business trust by a special purpose vehicle referred to in Schedule V (Note 2);</p> <p>e. any other notified person</p>
<b>8(iii)</b>	<p><i>Specified senior citizen</i> means an individual, being a resident in India:</p> <p>a. who is of the age of 75 years or more at any time during the tax year;</p> <p>b. who is having pension income and no other income except the interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and</p> <p>c. has furnished a declaration to the specified bank containing particulars, in such form and verified in such manner as may be prescribed</p>
<b>8(iv)</b>	<p>The TDS is required to be deducted where any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind, provided to a resident and before providing such benefit or perquisite, as the case may be, the person responsible for providing such benefit or perquisite shall ensure that tax has been deducted</p>
<b>8(v)</b>	<p>a. for deduction of tax, the provisions thereof shall take precedence over any other provisions of this Chapter;</p> <p>b. any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and this amount shall be included in the gross amount of such sale or services for the purposes of deduction of income-tax under this serial number;</p> <p>c. e-commerce operator shall be deemed to be the person responsible for paying to e-commerce participant;</p> <p>d. irrespective of anything contained in this Chapter, if—</p> <p>i. tax has been deducted on a transaction under this serial number; or</p> <p>ii. a transaction is not liable for tax deduction as provided in section 393(4) (Table: Sl. No. 11)</p> <p>then tax shall not be deducted on such transaction under any other provision of this Chapter;</p> <p>e. Clause (d) shall not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for—</p> <p>i. hosting advertisements; or</p> <p>ii. providing any other services,</p>

	which are not in connection with the sale or services referred to in this serial number.
<b>8(v) &amp; (vi)</b>	In case of a transaction on which serial number 8(v) are applicable along with serial number 8(vi) for deduction of tax, then tax on such transaction shall be deducted under serial number 8(vi).
<b>8(iv) &amp; (vi)</b>	Where the consideration or, benefit or requisite provided, as the case may be,- i. is in exchange of another virtual digital asset where there is no part in cash, in respect of serial number 8(iv); or ii. is wholly in kind; or iii. is partly in kind and partly in cash, but such part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such payment or benefit or requisite, the person responsible for paying or providing shall ensure that the tax required to be deducted has been paid, before releasing such consideration or providing such benefit or requisite, as the case may be;
<b>8(iii)</b>	The provisions of serial number 8(iii) shall take precedence over any other provisions of this Chapter and tax shall be deducted under this provision

### Tax to be deducted at source from payment any person [Sec. 393(3)]

The payer is responsible for deducting tax on such income or sum at the prescribed rate. This must be done at the time of payment (via cash, cheque, draft, or any other mode).

The transactions are listed below:

S. N.	Nature of income or sum	Payer	Rate / Threshold limit
1.	Any income by way of winnings (other than winnings from online games as referred to in serial number 2) from: a. any lottery; or b. crossword puzzle; or c. card game and other game of any sort; or d. gambling or betting of any form or nature whatsoever.	Any person	<b>Rate:</b> 30% (In case on non-resident, it is further increased by surcharge & cess)  <b>Threshold limit:</b> ₹ 10,000 in case of a single transaction.
2.	Any income by way of winnings from online game.	Any person.	<b>Rate:</b> 30% (In case on non-resident, it is further

			increased by surcharge & cess) <b>Threshold limit:</b> Nil
	<p>1. Tax shall be deducted—</p> <p>a. on net winnings in the user account of the payee at the end of the tax year;</p> <p>b. where there is any withdrawal from user account during the tax year, the tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal as well as on the remaining amount of net winnings in user account at the end of the tax year, where the net winnings in each case is computed in the such manner as may be prescribed.</p> <p>2. For serial numbers 1 and 2, where the winnings or net winnings, as the case may be:</p> <p>a. is wholly in kind; or</p> <p>b. is partly in kind and partly in cash, but such part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such winnings,</p> <p>then, the person responsible for paying shall ensure that the tax required to be deducted has been paid, before releasing the winnings.</p>		
3.	Any income by way of winnings from any horse race.	Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course.	<b>Rate:</b> 30% (In case on non-resident, it is further increased by surcharge & cess) <b>Threshold limit:</b> ₹ 10,000 in case of a single transaction.
4.	Any income, credited or paid to a person, who is or has been stocking, distributing, purchasing or selling lottery tickets, by way of commission, remuneration or prize (by whatever name called) on such tickets.	Any person	<b>Rate:</b> 2% <b>Threshold limit:</b> ₹ 20,000.
5.	Any sum, paid in cash, from one or more accounts maintained by any person (herein referred as recipient).	Any person, being, a. a banking company; b. a co-operative society engaged in	<b>Rate:</b> 2% <b>Threshold limit:</b>

		carrying on the business of banking; or c. a post office.	a. ₹ 3 crore in case of recipient being a co-operative society; or b. ₹ 1 crore in case of recipient being a person other than a co-operative society.
6.	Any amount referred to in sec. 80CCA(2)(a) of the Income-tax Act, 1961 [National Saving Scheme]	Any person	<b>Rate:</b> 10%  <b>Threshold limit:</b> ₹ 2,500.
7.	Any sum in the nature of salary, remuneration, commission, bonus or interest paid to a partner of the firm or credited to his account (including capital account).	Firm.	<b>Rate:</b> 10%  <b>Threshold limit:</b> ₹ 20,000

### Taxpoint

Table S. N.	Taxpoint
4	The person responsible for making the payment shall deduct tax at the time of credit of such sum or at the time of payment of such sum in cash or by issue of a cheque or a draft or by any other mode, whichever is earlier
5	TDS is not applicable where payment made to: <ol style="list-style-type: none"> <li>a. the Government;</li> <li>b. any banking company or co-operative society engaged in carrying on the business of banking or a post office;</li> <li>c. any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, as per the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934);</li> <li>d. any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, as per the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007</li> </ol>
6	TDS is not applicable where payment made to heirs of the assessee

### Tax to be deducted at source from payment to non-resident [Sec. 393(2)]

The payer is responsible for deducting tax on such income or sum at the prescribed rate. This must be done at the time of:

- Crediting such income or sum to the account of the non-resident payee; **or**
- Payment (via cash, cheque, draft, or any other mode).
  - **whichever is earlier**

The transactions are listed below:

S. N.	Nature of income or sum	Payee	Payer	Rate
1.	Any income referred to in sec. 211	a. A non-resident sportsman (including an athlete) or an entertainer, who is not a citizen of India; or b. a non-resident sports association or institution.	Any person.	20%
2.	Any income by way of interest payable in respect of moneys borrowed in foreign currency from a source outside India,- a. under a loan agreement or issue of long-term infrastructure bond on or after 01-07-2012 but before 01-07-2023; or b. by way of issue of any long-term bond on or after 01-10-2014 but before 01-07-2023, which is approved by the Central Government in this behalf.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%
For serial numbers 2, 3 and 4, the interest payable shall be income to the extent to which such interest does not exceed the amount of interest calculated at the				

	rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment			
3.	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of rupee denominated bond before 01-07-2023	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	5%
4.	Any income by way of interest payable in respect of moneys borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bond, which is listed only on a recognised stock exchange located in any International Financial Services Centre.	Any non-resident (not being a company) or a foreign company.	Any Indian company or a business trust.	
	- where such bonds are issued on or after 01-04-2020 but before 01-07-2023			4%
	- where such bonds are issued on or after 01-07-2023			9%
5.	Any income by way of interest.	Any non-resident (not being a company) or a foreign company.	Any infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46).	5%
6.	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 3).	Any unit holder, being a non-resident (not being a company) or a foreign company.	Any business trust.	
	- in case of income of the nature referred to in Schedule V [Table: Sl. No. 3, II(a)];			5%
	- in case of income of the nature referred to in Schedule V [Table: Sl. No. 3, II(b)]			10%
	TDS is not applicable on income of the nature referred to in Schedule V [Table: Sl. No. 3.B(b)], if the special purpose vehicle referred to in the said clause has not exercised the option u/s 200 – Sec. 393(4) Table S. N. 13			

7.	Any distributed income referred to in section 223, being of the nature referred to in Schedule V (Table: Sl. No. 4).	Any unitholder, being a non-resident (not being a company) or a foreign company.	Any business trust.	35% if recipient is foreign co., 30% for other
8.	Any income, other than that proportion of income which is exempt under Schedule V (Table: Sl. No. 2), in respect of units of an investment fund specified in sec. 224.	Any unitholder, being a non-resident (not being a company) or a foreign company.	Any investment fund specified in sec. 224.	35% if recipient is foreign co., 30% for other
TDS is not applicable on income that is not chargeable to tax – Sec. 393(4) Table S. N. 14				
9.	Any income in respect of an investment in a securitisation trust specified in sec. 221.	Any investor, being a non-resident (not being a company) or a foreign company.	Any securitisation trust specified in sec. 221.	35% if recipient is foreign co., 30% for other
10.	a. in respect of units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21); or b. in respect of units from the specified company.	Any non-resident (not being a company) or a foreign company.	Any person.	20%
<ul style="list-style-type: none"> <li>• Where an agreement referred to in sec. 159(1) or 159(2) applies to the payee and if the payee has furnished a certificate referred to in sec. 159(8), as the case may be, then, income-tax shall be deducted at the rate or rates of income-tax provided in such agreement for such income, if such rate is lower than 20%.</li> <li>• TDS is not applicable on income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident HUF, subject to prescribed conditions – Sec. 393(4) Table S. N. 15</li> </ul>				
11.	Any income in respect of units referred to in sec. 208.	Any offshore fund.	Any person.	10%
12.	Any income by way of long-term capital gains arising	Any offshore fund.	Any person.	12.5%

	from the transfer of units referred to in sec. 208.			
<b>13.</b>	Any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in sec. 209.	Any non-resident.	Any person.	10%
<b>14.</b>	Any income by way of long-term capital gains arising from the transfer of bonds or Global Depository Receipts referred to in sec. 209.	Any non-resident.	Any person.	12.5%
<b>15.</b>	Any income in respect of securities referred to in sec. 210(1) (Table: Sl. No. 1).	Any Foreign Institutional Investor.	Any person.	20%
	<ul style="list-style-type: none"> <li>• Where an agreement referred to in sec. 159(1) or 159(2) applies to the payee and if the payee has furnished a certificate referred to in sec. 159(8), as the case may be, then, income-tax shall be deducted at the rate or rates of income-tax provided in such agreement for such income, if such rate is lower than 20%.</li> <li>• TDS is not applicable on income, by way of capital gains arising from the transfer of securities referred to in section 210, if payable to a Foreign Institutional Investor – Sec. 393(4) Table S. N. 16</li> </ul>			
<b>16.</b>	Any income in respect of securities referred to in sec. 210(1) (Table: Sl. No. 1).	A specified fund referred to in Schedule VI [Note 1(g)].	Any person.	10%
	TDS is not applicable on Income is exempt as per Schedule VI (Table: Sl. Nos. 1 to 4) – Sec. 393(4) Table S. N. 17			
<b>17.</b>	Any interest (not being interest referred to against serial numbers 2, 3, 4 and 5) or any other sum chargeable under the provisions of this Act, not being income chargeable under the head "Salaries".	Any non-resident (not being a company) or a foreign company.	Any person.	Rates in force.
	<ul style="list-style-type: none"> <li>• If interest is payable by the Government or a public sector bank or a public financial institution within the meaning of Schedule VII (Note 3), deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode;</li> <li>• the obligation to deduct tax at source and comply with the provisions of this serial number extend to all persons resident or non-resident, whether or not, the non-resident person has—</li> </ul>			

	<ul style="list-style-type: none"> <li>i. a residence or place of business or business connection in India; or</li> <li>ii. any other presence in any manner whatsoever in India.</li> </ul>
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### Non-Applicability of TDS [Sec. 393(5)]

The tax shall not be deducted by any person from any amount payable to—

- a. the Government; or
- b. the Reserve Bank of India; or
- c. a corporation established by or under a Central Act which is, under any law in force, exempt from income-tax on its income; or
- d. a Mutual fund as specified at Schedule VII (Table: Sl. No. 20 or 21), where such amount is payable to it by way of—
  - A. interest; or
  - B. dividend in respect of any securities or shares owned by it or in which it has full beneficial interest; or
  - C. any other income accruing or arising to it

### No deduction to be made in certain cases [Sec. 393(6)]

The deduction of tax shall not be made (as referred to in the table), in the case of following person, if such person furnishes to the person responsible for paying any income or sum of the nature referred to in such provisions, a written declaration in duplicate in such form [Form 121 – Rule 211] and manner as may be prescribed that the tax on such person’s estimated total income of the tax year in which such income or sum is to be included in computing his total income shall be *nil*.

S.N.	Person	Provisions for tax deduction at source
1.	An individual being a resident	<ul style="list-style-type: none"> <li>a. payment of accumulated balance due to an employee referred to in sec. 392(7);</li> <li>b. insurance Commission referred to in sec. 393(1) [Table: Sl. No. 1(i)];</li> <li>c. rent referred to in sec. 393(1) [Table: Sl. No. 2(ii)];</li> <li>d. income in respect of units referred to in sec. 393(1) [Table: Sl. No. 4(i)];</li> <li>e. interest referred to in sec. 393(1) [Table: Sl. No. 5(i), (ii) and (iii)];</li> <li>f. payment in respect of life insurance policy referred to in sec. 393(1) [Table: Sl. No. 8(i)];</li> <li>g. dividend referred to in sec. 393(1) (Table: Sl. No. 7).</li> </ul>
2.	Any person not being a company or a firm or an individual	All as discussed above except dividend

	covered in Sl. No. (1).	
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**Taxpoint**

- This provision shall not apply in case of a person other than an individual being a resident who is of the age of 60 years or more at any time during the tax year, if the aggregate of amounts of any income or sum of the nature referred above is credited or paid or likely to be credited or paid during the relevant tax year in which such income or sum is to be included, exceeds the maximum amount not chargeable to tax.
- The declaration referred above may also be furnished electronically to a depository, where:
  - i. the income is from units, interest on securities or dividends, as the case may be, as referred to in sec. 393(1) [Table: 4(i), 5(i) or 7];
  - ii. such units or securities are held with such depository; and
  - iii. such securities are listed on a recognised stock exchange, in accordance with such procedure and manner, as may be prescribed.
- The person responsible for paying any income or sum of the nature referred above shall deliver or cause to be delivered, such declaration, received from the person or the depository, to the prescribed income-tax authority, on or before the 7<sup>th</sup> day of the month immediately following the end of each quarter in which declaration is furnished to him.

**No deduction to be made where amount payable to certain institution [Sec. 393(8) & (9)]**

- The deduction of tax shall not be made from the interest paid by an Offshore Banking Unit on borrowing from or deposit made on or after 01-04-2005, by a non-resident or a person not ordinarily resident in India.
- The deduction of tax shall not be made from any payment to a person for, or on behalf of, the New Pension System Trust referred to in Schedule VII (Table: Sl. No. 41).

**TAX COLLECTION AT SOURCE**

Apart from TDS, another device applied for information network is Tax collection at source (TCS) u/s 394.

**Applicability of Sec. 394**

The person (such as a Seller, Authorized Dealer, Licensor, or Lessor) is responsible for collecting tax on the sale of specified items or transactions at the prescribed rate. This must be done at the time of:

- Debiting the amount payable to the account of the buyer, licensee, or lessee; **or**
- Receiving the payment (via cash, cheque, draft, or any other mode).

- **whichever is earlier**

The transactions are listed below:

S. N.	Nature of receipt	Person	Rate of TCS
1.	Sale of alcoholic liquor for human consumption	Seller	2%
2.	Sale of tendu leaves	Seller	2%
3.	<ul style="list-style-type: none"> <li>● Sale of timber whether obtained under a forest lease or otherwise; or</li> <li>● Sale of any other forest produce (not being timber or tendu leaves) obtained under a forest lease.</li> </ul>	Seller	2%
4.	Sale of scrap	Seller	2%
5.	Sale of minerals being coal or lignite or iron ore	Seller	2%
6.	Sale consideration exceeding ₹ 10 lakh in case of: <ul style="list-style-type: none"> <li>a. motor vehicle; or</li> <li>b. any other notified goods<sup>1</sup></li> </ul>	Seller	1%
7.	Remittance under the Liberalised Remittance Scheme of an aggregate amounts exceeding ₹ 10 lakh	Authorised dealer	<ul style="list-style-type: none"> <li>a. 2% for purposes of education or medical treatment;</li> <li>b. 20% for other purposes</li> </ul>
8.	Sale of “overseas tour programme package” including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure	Seller	2%
9.	Use of parking lot or toll plaza or mine or quarry for the purpose of business, excluding mining and quarrying of mineral oil (including petroleum and natural gas)	Licensor or Lessor	2%

**Taxpoint**

<sup>1</sup> Notified goods: Following goods of the value exceeding ₹ 10 lakh

**a.** any wrist watch; **b.** any art piece such as antiques, painting, sculpture; **c.** any collectibles such as coin, stamp; **d.** any yacht, rowing boat, canoe, helicopter; **e.** any pair of sunglasses; **f.** any bag such as handbag, purse; **g.** any pair of shoes; **h.** any sportswear and equipment such as golf kit, ski-wear; **i.** any home theatre system; **j.** any horse for horse racing in race clubs and horse for polo

Applicable for	Taxpoint
Table: S. No. 1 to 5	Provision shall not be applicable in respect of the resident buyer, if he furnishes a written declaration [Form 127 Rule 212] in duplicate in such form and manner, as may be prescribed, to the seller, mentioning that such goods are to be utilised: <ol style="list-style-type: none"> <li>a. for the purposes of manufacturing, processing or producing articles or things or for generating power; and</li> <li>b. not for trading purposes</li> </ol> After receiving such declaration, one copy of such declaration shall be submitted by the seller to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, on or before 7 <sup>th</sup> day of the month following the month of receipt of that declaration.
Table: S. No. 4	<i>Scrap</i> means waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons.
Table: S. No. 7	TCS shall not be made by the authorised dealer: <ol style="list-style-type: none"> <li>a. on such amount on which tax has been collected by the seller in Table: Sl. No. 8;</li> <li>b. if the amount being remitted out is a loan obtained from any financial institution for the purpose of pursuing any education</li> </ol> <i>Authorised dealer</i> means a person authorised by the Reserve Bank of India u/s 10(1) of the Foreign Exchange Management Act, 1999 to deal in foreign exchange or foreign security;
Table: S. No. 8	<i>Overseas tour programme package</i> means any tour package which offers visit to a country or territory outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.
Table: S. No. 7 & 8	The collection of tax shall not be made by the authorised dealer or seller, if the buyer is liable to deduct tax at source under any other provisions of this Act and he has deducted such tax.
Table: S. No. 1 to 5	Buyer means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the such nature, or the right to receive any such goods. But does <b>NOT</b> include: <ol style="list-style-type: none"> <li>a. A public sector company; or</li> </ol>

	<p>b. the Central or a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State; or</p> <p>c. a club; or</p> <p>d. a buyer in the retail sale of such goods purchased by him for personal consumption.</p>
Table: S. No. 6	<p>TCS is not applicable if buyer is:</p> <p>a. the Central or a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State; or</p> <p>b. a local authority; or</p> <p>c. a public sector company which is engaged in the business of carrying passengers.</p>
Table: S. No. 1 to 6	<p>Seller means:</p> <p>a. the Central Government; or</p> <p>b. a State Government; or</p> <p>c. any local authority or corporation or authority established by or under a Central Act or State Act or Provincial Act; or</p> <p>d. any company or firm or co-operative society; or</p> <p>e. an individual or a Hindu undivided family, whose total sales, gross receipts or turnover during the tax year immediately preceding the tax year exceeds the following limit</p> <ul style="list-style-type: none"> <li>● Engaged in business then total turnover or sales &gt; ₹ 1 crore</li> <li>● Engaged in profession then gross receipt &gt; ₹ 50 lakh</li> </ul>
Table: S. No. 8	<p>Seller means a person who sells overseas tour program package</p>
Table: S. No. 7 & 8	<p>TCS is not applicable if remitter or purchaser is:</p> <p>a. A public sector company; or</p> <p>b. a local authority; or</p> <p>c. Any other person as notified subject to specified conditions</p>
Table: S. No. 9	<p>➤ Licensee or lessee means any person (other than a public sector company) who has been granted a lease or a licence or entered into a contract or otherwise received any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, from the licensor or lessor for the use of parking lot or toll plaza or mine or quarry for the purposes of business – Sec. 402(21)</p>

	➤ Licensor or lessor means any person who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company for the use of such parking lot or toll plaza or mine or quarry for the purposes of business – Sec. 402(22)
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**TCS at Higher Rate [Sec. 397(2)]**

- Any person paying any sum, on which tax is collectible at source shall furnish his PAN to the person responsible for collecting such tax, failing which tax shall be collected at the higher of the following rates:
  - i. at twice of the specified TCS rate; or
  - ii. at the rate of 5%.
- Where the PAN provided is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his PAN to the collector.

**Exception**

- The provisions of higher rate shall not be applicable to a non-resident who does not have permanent establishment in India (which includes a fixed place of business through which the business of the enterprise is wholly or partly carried on)

**Certificate for deduction at lower rate [Sec. 395]**

1. Where tax is required to be deducted on any income or sum, then subject to the rules made under this Act,—
  - a. the payee may make an application [in Form 128 – Rule 213] before the Assessing Officer for deduction of income-tax at a lower rate or no deduction of income-tax, as the case may be; and
  - b. the Assessing Officer on being satisfied that the total income of the payee justifies deduction of income-tax at a lower rate or no deduction of income-tax, as the case may be, shall issue to him a certificate as appropriate; and
  - c. when a certificate is issued, the person responsible for paying the income or sum shall deduct the tax at the rate specified in such certificate, or deduct no income-tax, as the case may be, till its validity.
2. (a) The person responsible for paying to a non-resident any sum as mentioned in sec. 393(2) (Table: Sl. No. 17), may make an application [in Form 129 – Rule 214] to the Assessing Officer in such form and manner as may be prescribed, where he considers that the whole of such sum would not be chargeable in the case of the recipient;
  - b. the application shall be for determination of the appropriate proportion of the sum chargeable to tax, by the Assessing Officer in the manner as may be prescribed; and
  - c. determination is made by the Assessing Officer, the tax shall be deducted under sec. 393(2) (Table: Sl. No. 17) only on that proportion of sum which is chargeable to tax

- under the Act.
3. Where tax is required to be collected on any amount, then subject to the rules made under this Act,—
    - a. the buyer or licensee or lessee may make an application before the Assessing Officer for collection of tax at a lower rate;
    - b. the Assessing Officer on being satisfied that the total income of the buyer or licensee or lessee justifies collection of tax at a lower rate, shall issue to him a certificate as may be appropriate; and
    - c. when a certificate is issued, the person responsible for collecting tax shall collect it at the rates specified in such certificate till its validity.
  4. (a) Every person deducting or collecting tax shall issue a certificate to the deductee or collectee, as the case may be, specifying:
    - i. the amount of tax that has been deducted or collected;
    - ii. the rate at which tax has been deducted or collected; and
    - iii. any other particulars, as may be prescribed,

- within such period as may be prescribed;
  - (b) an employer referred to in sec. 392(2)(a) shall issue a certificate to the employee, in respect of whose income payment of tax has been made by the employer, that the tax has been paid to the Central Government, and specify:
    - i. the amount of tax so paid;
    - ii. the rate at which tax has been paid; and
    - iii. any other particulars, as may be prescribed,

- within such period, as may be prescribed.
  5. The Assessing Officer may cancel the certificate granted after giving reasonable opportunity to the applicant.
  6. The application referred to in sub-section (1) may also be filed before the prescribed income-tax authority, subject to such conditions as may be prescribed, and such authority on electronic verification of the contents of the application, may-
    - a. either issue a certificate for deduction of income-tax at lower rate or no deduction of income-tax; or
    - b. reject such application on account of non-fulfilment of the prescribed conditions or on account of the application being incomplete.

### **Tax deducted is income received [Sec. 396]**

All sums deducted [including income-tax paid outside India, by way of deduction, in respect of which an assessee is allowed a credit against the tax payable under this Act] shall, for the purpose of computing the income of an assessee, be deemed to be income received. E.g., If Mr. X received interest of ₹ 18,000 (after deduction of tax ₹ 2,000), then interest income of Mr. shall be considered as ₹ 20,000/-.

**Exception:** Tax paid u/s 392(2)(a) and tax deducted as per sec. 393(3) (Table: Sl. No. 5).

## Compliance and reporting [Sec. 397]

### Application for allotment of Tax Deduction and Collection Account Number (TAN)

Every person deducting or collecting tax shall apply for allotment of a tax deduction and collection account number to the Assessing Officer within such time as may be prescribed [Form 135<sup>2</sup>], if that person has not already been allotted such number.

**Exception:** Application for TAN is not required:

- i. a person in respect of a transaction where he is required to deduct tax u/s 393(1) [Table: Sl. No. 2(i), 3(i) or 6(ii)]; or
- ii. a person referred to in sec. 393(4) [Table: Sl. No. 12.C(a)] in respect of a transaction where he is required to deduct tax on consideration for transfer of a virtual digital asset u/s 393(1) [Table: Sl. No. 8(vi)]; or
- iii. a resident individual or Hindu undivided family in respect of a transaction where he is required to deduct tax on any consideration for the transfer of any immovable property u/s 393(2) [Table: Sl. No. 17]; or
- iv. a notified person

Where TAN has been allotted to a person, such person shall quote such number in all challans, statements, certificates referred to in this Chapter, and in all documents pertaining to such transactions as may be prescribed in the interests of revenue;

### Requirement to furnish Permanent Account Number

- ✳ Any person entitled to receive / pay any sum or income or amount, on which tax is deductible / collectible (hereafter referred to as deductee) shall furnish his Permanent Account Number (PAN) to the person responsible for deducting / collecting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the **higher** of the following rates:

For TDS	For TCS (subject to max. of 20%)
<p>(i) at the rate specified in the relevant provision of this Act; or</p> <p>(ii) at the rate or rates in force; or</p> <p>(iii) at the rate of 20% [5% in case of 393(1) [Table: Sl. No. 8(ii) or 8(v)]]</p>	<p>i. at twice the rate specified in the relevant provision of this Act; or</p> <p>ii. at the rate of 5%;</p>
<p><b><u>Exception 1</u></b></p> <p>The provisions shall not apply to a non-resident, not being a company or a foreign company, in respect of:</p>	<p><b><u>Exception</u></b></p> <p>The provisions shall not apply to a non-resident who does not have permanent establishment in India (which includes a fixed place of business through which</p>

<sup>2</sup> Form 134 for Government Entity

<p>i. payment of interest on long-term bonds as specified in sec. 393(2) (Table: Sl. Nos. 2, 3 and 4);</p> <p>ii. any other payment subject to such conditions, as may be prescribed</p> <p><b><u>Exception 2</u></b></p> <p>In respect of rent specified in sec. 393(1) [Table: Sl. No. 2(i)], if the tax is required to be deducted, then such deduction shall not exceed the amount of rent payable for the last month of the tax year or the last month of the tenancy, as the case may be</p>	<p>the business of the enterprise is wholly or partly carried on</p>
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- ❖ No declaration u/s 393(6) [i.e., Form 121] or 394(2) shall be valid unless the person furnishes his Permanent Account Number in such declaration. In case any declaration becomes invalid, the deductor / collector shall deduct / collect the tax at source accordingly.
- ❖ No certificate u/s 395 [i.e., lower or nil TDS Certificate] shall be granted unless the application made for the purpose contains the Permanent Account Number of the applicant.
- ❖ Where the Permanent Account Number provided to the deductor / collector is invalid or does not belong to the deductee / collectee, it shall be deemed that the deductee / collectee has not furnished his Permanent Account Number to the deductor / collector.
- ❖ The deductee / collectee shall furnish his Permanent Account Number to the deductor / collector and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

**Deposit of TDS within Time-Limit [Read with Rule 218]**

Tax deducted or collected by the deductor or collector shall be deposited electronically through internet banking facility to the credit of the Central Government within following time limit –

TDS / TCS	Time limit
<p><b>a)</b> Tax is deducted / collected on behalf of the Government</p>	
<ul style="list-style-type: none"> <li>• Where the tax is paid without production of an income-tax challan</li> </ul>	<p>On the same day</p>

<ul style="list-style-type: none"> <li>Where the tax is paid with production of an income-tax challan</li> </ul>	On or before 7 days from the end of the month in which tax is deducted
<b>b)</b> When the Assessing Officer (after obtaining prior approval from Joint Commissioner) permits quarterly payment of tax:	
<ul style="list-style-type: none"> <li>Where deduction is made u/s 392, 393(1) Table Sl. Nos. 1(i) / (ii) and 5(ii) / (iii)</li> </ul>	a. Within July 7 (for Quarter ending on June 30), b. Within October 7 (for Quarter ending on September 30), c. Within January 7 (for Quarter ending on December 31) & d. Within April 30 (for Quarter ending on March 31)
<b>c)</b> In any other case	
<ul style="list-style-type: none"> <li>For the month of March</li> </ul>	Within forthcoming 30 <sup>th</sup> April
<ul style="list-style-type: none"> <li>For the months other than month of March</li> </ul>	Within 7 days from the <i>end of the month</i> in which tax is deducted at source.
<p><i>Exception:</i> Where tax is deducted u/s 393(1) Table Sl. No. 2(i), 3(i), 6(ii) and 8(vi), tax shall be paid to the credit of the Central Government within a period of 30 days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 141</p>	

### **Duty to furnish statement**

Any person after paying the tax deducted or collected to the credit of the Central Government prepare following quarterly statements:

Particulars	Form No.
Tax is deducted from salary u/s 392 [excluding 392(7)] & 393(1) S.No. 8(iii).	138
Tax is deducted from payment made to non-resident, foreign company or not-ordinarily resident u/s 392(7), 393(2) or 393(3)	144
Other deductions where a return is required (excluding TCS)	140
TCS	143

### **Due date of furnishing quarterly statement**

Particulars	Due date of submission of quarterly return
For quarter ending on 30 June	July 31 of the financial year
For quarter ending on 30 September	October 31 of the financial year
For quarter ending on 31 December	January 31 of the financial year
For quarter ending on 31 March	May 31 of the forthcoming financial year

**Taxpoint:** However, in case of Government deductor where payment was made without challan, shall submit a statement in Form No. 137. It should be submitted to an agency authorized by the Director General of Income-tax (Systems) within the following time-limit:

Case	Time-limit
Where statement relates to month of March	On or before 30 days from the end of the month in respect of tax deducted/collected by the deductors/collectors and reported to him for that month.
Where statement relates to any other month	On or before 15 days from the end of the month in respect of tax deducted/collected by the deductors/collectors and reported to him for that month.

**Issuance of certificate to payee**

Any person responsible for deducting tax, shall require to issue a certificate (electronically generated) to the payee –

Nature of payment	Certificate	Time-limit
Salary	130	Annual certificate shall be issued on or before June 15 of the financial year following the tax year in which tax is deducted. Further, the employer shall furnish a statement in Form 123 to the employee (whose salary exceeds ₹ 1,50,000) giving correct and complete particulars of perquisites or profits in lieu of salary provided to employee and the value thereof
TCS	133	Quarterly certificate shall be issued within 15 days from the due date of furnishing quarterly TCS return
Others	131	Quarterly certificate shall be issued within 15 days from the due date of furnishing quarterly TDS return

Where payment shall be made in Form 141, then corresponding TDS certificate for these special cases should be in Form No. 132. It must be issued to the deductee within 15 days of the due date of furnishing Form 141.

### **Interest on non-deposit of TDS / TCS**

If any person does not deduct or collect the whole or any part of the tax or after deducting or collecting fails to pay the tax as required under this Act, he shall be liable to pay simple interest:

- i. at 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible or collectible to the date on which such tax is deducted or collected; and
- ii. at 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted or collected to the date on which such tax is actually paid.

### **Section Mapping**

<b>Particulars</b>	<b>Sec. under 1961 Act</b>	<b>Sec. under 2025 Act</b>
Salary and accumulated balance due to an employee	192 / 192A	392
Interest on securities	193	393
Dividends	194	393
Interest other than "Interest on securities"	194A	393
Winnings from lottery or crossword puzzle, etc.	194B	393
Winnings from online games	194BA	393
Winnings from horse race	194BB	393
Payments to contractors	194C	393
Insurance commission	194D	393
Payment in respect of life insurance policy	194DA	393
Payments to non-resident sportsmen or sports associations	194E	393
Payments in respect of deposits under National Savings Scheme, etc.	194EE	393
Commission, etc., on sale of lottery tickets	194G	393
Commission or brokerage	194H	393
Rent	194-I	393
Payment on transfer of certain immovable property other than agricultural land	194-IA	393
Payment of rent by certain individuals or Hindu undivided family	194-IB	393
Payment under specified agreement	194-IC	393
Fees for professional or technical services	194J	393

Income in respect of units	194K	393
Payment of compensation on acquisition of certain immovable property	194LA	393
Income by way of interest from infrastructure debt fund	194LB	393
Certain income from units of a business trust	194LBA	393
Income in respect of units of investment fund	194LBB	393
Income in respect of investment in securitization trust	194LBC	393
Income by way of interest from Indian company	194LC	393
Payment of certain sums by certain individuals or Hindu undivided family	194M	393
Payment of certain amounts in cash	194N	393
Payment of certain sums by e-commerce operator to e-commerce participant	194-O	393
Deduction of tax in case of specified senior citizen	194P	393
Deduction of tax at source on payment of certain sum for purchase of goods	194Q	393
Deduction of tax on benefit or perquisite in respect of business or profession	194R	393
Payment on transfer of virtual digital asset	194S	393
Payments to partners of firms	194T	393
Other sums	195	393
Income payable "net of tax"	195A	393
Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations	196	393
Income in respect of units of non-residents	196A	393
Income from units	196B	393
Income from foreign currency bonds or shares of Indian company	196C	393
Income of Foreign Institutional Investors from securities	196D	393
No deduction to be made in certain cases	197A	393
Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.	206C	394
Certificate	195 / 197 / 203 / 206C	395
Tax deducted is income received	198	396
Compliance and Reporting	200 / 203A / 206A /	397



	206AA / 206CC	
Consequences of failure to deduct or pay or collect or pay	201 / 206C	398
Processing	200A / 206CB	399
Bar against direct demand on assessee	205	401
Interpretation	-	402

## PERMANENT ACCOUNT NUMBER

Permanent Account Number (PAN) is an *alpha-numeric* (ten characters) code given to a person by income tax department for the purpose of identification of the assessee, and includes a PAN allotted under the new series. A person can have only one PAN.

### Permanent Account Number [Sec. 262] [Old Sec. 139A & 139AA]

#### A. On Application

##### **Compulsory application for allotment of PAN**

As per sec. 262(1) read with Rule 158, following persons are under statutory obligation to apply for PAN within the time limit stated as under:

Who is to apply for PAN	When to apply for PAN
Any person whose total income exceeds maximum exemption limit.	On or before the 31st May of the tax year immediately succeeding the tax year, for which such income is assessable.
Any resident person other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a tax year	
Any person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred above or any person competent to act on behalf of the person referred above	
Any person whose sales or turnover or gross receipts are likely to exceed ₹ 5,00,000 in any tax year	On or before the end of the relevant tax year
Any person who is required to furnish return u/s 263 or 349 for any tax year	
Any person who is entitled to receive any sum or income, on which tax is deductible or collectible under in any tax year	Before making any export or import.
Any person who requires export-import code	
Assessee under the GST	Before making application for registration under GST.

Any person intends to enter into specified transactions [Rule 159(3)] <sup>1</sup>	7 days before entering into such transactions
Any other class or classes of person as notified by the CG	Within such time as may be prescribed

**Taxpoint:**

- A person who has already been allotted a PAN cannot apply, obtain or possess another PAN
- Every person shall intimate the Assessing Officer of any change in his address or in the name and nature of his business on the basis of which the PAN was allotted to him
- Every person who is eligible to obtain Aadhaar number shall quote such number in the application form for allotment of PAN and in the return of income.  
Where the person does not possess Aadhaar number, the Enrolment ID issued at the time of enrolment for aadhaar, is required to be quoted in the application of PAN and in the return of income
- **Linking of Aadhaar with PAN:** Further, every person who has been allotted PAN and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the prescribed income-tax authority in such form and manner, as may be prescribed. If a person fails to intimate his Aadhaar number, the PAN allotted to that person shall be made inoperative<sup>2</sup> [Rule 162] However, in few cases, exemption is given for intimating Aadhaar<sup>3</sup>.
- A person may apply for a PAN, even though, the person does not fall under any of the categories as mentioned above.
- Assessing Officer, *suo-motu*, allots a PAN to any person other than the person falling under the categories mentioned above.

<sup>1</sup> Transaction specified u/s 262(10)(c) – 1 to 10 & 11 (for 11, instead of ₹ 20 lakh, read ₹ 45 lakh). However, this rule is not applicable where the person carrying out transactions as per S. N. 1 to 10, is a non-resident (not being a company) or a foreign company and the transaction is entered into with an IFSC banking unit and such non-resident (not being a company) or the foreign company does not have any income chargeable to tax in India

<sup>2</sup> Consequences of inoperative PAN – (a) Refund should not be given to him; (b) Interest on refund is not payable to him; (c) TDS or TCS would be deducted or collected at higher rate

<sup>3</sup> The Central Government has, vide Notification No. 37/2017 dated 11.05.2017 effective from 01.07.2017, notified that the provisions relating to quoting of Aadhaar Number would not apply to an individual who does not possess the Aadhaar number or Enrolment ID and is:

- a. residing in Assam, Jammu & Kashmir and Meghalaya;
- b. a non-resident;
- c. of the age of 80 years or more at any time during the tax year;
- d. not a citizen of India

**Penalty [Sec. 467]**

Penalty provisions are as under:

Default	Penalty
Failure to apply for PAN	₹10,000
Failure to quote PAN/Aadhar Number on prescribed documents or authentic such number	₹10,000 for each such default
Failure to ensure that PAN/Aadhar Number are duly authenticated <sup>4</sup>	
Knowingly quoting or intimating a number which is false	

**Interchangeability of PAN and Aadhar [Sec. 262(7)]**

Every person who is required to furnish or intimate or quote his PAN, and who,—

- a) has not been allotted PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the PAN, and such person shall be allotted a PAN in such manner as may be prescribed;
- b) has been allotted a PAN, and who has intimated his Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the PAN.

Accordingly, the CBDT has, vide Notification No. 59/2019, dated 30.8.2019, provide that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN, shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents.

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN by intimating his Aadhaar number and he shall not be required to apply or submit any documents.

***Form for application (either compulsory or voluntary) – Rule 158***

The application for allotment of PAN shall be made in the following form:

Case	Form
For an individual being citizen of India	93
For an Indian company / an entity incorporated in India / an unincorporated entity formed in India	94

<sup>4</sup> *Authentication* means the process by which the PAN or Aadhaar number alongwith demographic information or biometric information of an individual is submitted to the income-tax authority or such other authority or agency as may be prescribed for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.

For an individual not being citizen of India	95
For an entity incorporated outside India / an unincorporated entity formed outside India	96

## Importance of PAN

### A. PAN must be quoted in all documents and challans [Sec. 262(3)]

- a) A person to whom a PAN is allotted, is required to quote that number in -
- All his returns to; or
  - Any correspondence with; or
  - Any other documents to,
    - Income-tax authority.
- b) A person to whom a PAN is allotted, is required to quote that number in *challans* for payment of any sum due under this Act.

### B. PAN must be quoted in documents pertaining to certain prescribed transactions [Sec. 262(10)(c) & Rule 159]

Every person shall quote its PAN or Aadhar in all documents pertaining to following transactions entered into by him –

1. Making application for issue of a credit card or debit card.
2. Opening of a demat account
3. Payment exceeding ₹ 50,000 to RBI for acquiring bonds issued by it.
4. Payment exceeding ₹ 50,000 to any mutual fund for purchase of its units.
5. A contract for sale or purchase of securities (other than shares) where transaction value exceeds ₹ 1 lakh per transaction
6. Deposit in cash exceeding ₹ 10,00,000 or more in a financial year in one or more account of the person with a banking company or a co-operative bank or a post office
7. Cash withdrawal or withdrawals aggregating to ₹ 10 lakh or more in a financial year, in one or more account of a person with a banking company or a co-operative bank or a Post Office
8. Transactions relating to sale or purchase of a motor vehicle (other than tractor) or motor cycle of amount exceeding ₹ 5,00,000
9. Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange where transaction value exceeds ₹ 1 lakh
10. Payment exceeding ₹ 50,000 to a company or an institution for acquiring debentures or bonds issued by it

11. Purchase or sale or gift or joint development agreement by any person of any immovable property value exceeding ₹ 20 lakh or stamp duty value exceeds ₹ 20 lakh
12. Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank
13. A time deposit of an amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year with: (i) a banking company or a co-operative bank; or (ii) a Post Office; or (iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or (iv) a non-banking financial company  
Time deposit means any deposit which is repayable on the expiry of a fixed period.
14. Commencement of account-based relationship with an insurer where insurance premium exceeds ₹ 50,000 in a financial year
15. Payment in cash exceeding ₹ 1,00,000 to a hotel or restaurant or a convention Centre or a banquet hall or any person engaged in event management against a bill or bills at any one time
16. Sale or purchase, by any person, of goods or services of any nature other than those specified above where transaction value exceeds ₹ 2 lakh per transaction

#### **Notes**

- i) Where a person, entering into any of the aforesaid transaction, is a minor and who does not have any income chargeable to tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction
- ii) Any person (other than company and firm) who does not have a PAN and who enters into any of transactions mentioned in S.N. 11 to 16, he shall make a declaration in Form No. 97 giving therein the particulars of such transaction.
- iii) A foreign company entering into transactions at S. N. 12 or 13 in an IFSC banking unit, who does not have —
  - a Permanent Account Number; and
  - any income chargeable to tax in India,
 shall make a declaration in Form No. 97
- iv) The provisions of this rule shall not apply to the following class or classes of persons:
  - a. the Central Government, State Governments and the consular offices; and
  - b. the non-residents referred to in section 2(72) in respect of the transactions referred to against S. N. 1 or 3 or 15 or 16.

#### **Time and manner of furnishing Form No. 97 [Rule 160]**

1. Every person, who has received any declaration in Form No. 97 in relation to a transaction specified above, shall:
  - a. furnish a statement in Form No. 98 containing particulars of declaration to the Director of Income tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose and obtain an acknowledgement number; and
  - b. retain Form No. 97 for a period of 6 years from the end of the financial year in which the transaction was undertaken.
2. The statement shall:
  - a. where the declarations are received by the 30th September, be furnished by the 31st October of that year; and
  - b. where the declarations are received by the 31st March, be furnished by the 30th April of the financial year immediately following the financial year in which the form is received.

### **C. PAN on TDS & TCS Certificate**

- a) **On TDS**: Every person is required to intimate his PAN to the person who has deducted the tax at source

#### **Exceptions**

This provision is not applicable to an assessee who furnishes to the payer a declaration in writing in the prescribed form and manner to the effect that the tax on his estimated total income is nil or he is not required to obtain PAN.

The person deducting tax at source is required to quote –

- PAN of the payee;
- PAN of himself;
- Tax Deduction Account Number (TAN) of himself,  
- in all statements, certificates.

- b) **On TCS**: Every person responsible for collecting tax in accordance shall quote PAN of every buyer or licensee or lessee in all certificates and in all returns  
Every buyer or licensee or lessee is required to intimate his PAN to the seller who has collected the tax at source

### **Persons Exempt from obtaining Permanent Account Number [Rule 157]**

- The provisions of sec. 262 shall not apply to a non-resident (not being a company or a foreign company) who has, during a tax year, made investment in a specified fund, if:

- a. such non-resident does not earn any income in India other than the income from the investment in the specified fund during the tax year;
  - b. the income-tax due on such income of non-resident is deducted at source and remitted to the Central Government by the specified fund at the rates specified sections 393(1) [Table: Sl. No. 4(iii)], 393(2) [Table: Sl. No. 8] and 393(4) [Table: Sl. No. 14]; and
  - c. the non-resident furnishes specified details and documents to the specified fund
  - d. The specified fund shall electronically furnish a quarterly statement in Form 92 for the quarter of the financial year, in which aforesaid details and documents are received by it to the Director General of Income-tax (Systems) or a person authorised by him within 15 days from the end of the quarter of the financial year to which such statement relates.
- The provisions of sec. 262 shall not apply to a non-resident, being an eligible foreign investor, who has made transaction only in capital assets referred to in sec. 70(1)(r), which are listed on a recognised stock exchange located in any International Financial Services Centre and the consideration on such transfer of capital asset is paid or payable in foreign currency, if:
- c. the eligible foreign investor does not earn any income in India, other than the income from transfer of a capital asset referred above;
  - d. the eligible foreign investor furnishes specified details and documents to the stock broker
  - e. The stock broker shall electronically furnish a quarterly statement in Form 92 for the quarter of the financial year, in which aforesaid details and documents are received by it to the Director General of Income-tax (Systems) or a person authorised by him within 15 days from the end of the quarter of the financial year to which such statement relates.



# RETURN OF INCOME

## Filing of Return

As per provisions of sec. 263(1), following persons are required to file a return of income in the prescribed form and within the prescribed time -

Section	Assessee	Size of income
263(1)(a)(i) / (ii)	A company or a firm	Irrespective of size of income (even where there is a loss)
263(1)(a)(iv)	Specified Entity	Total income without giving effect to the provisions of sec. 11 exceeds the maximum amount which is not chargeable to income tax.
263(1)(a)(v)	A University, college or other institution as referred to in sec. 45(3)(a)	Irrespective of size of income (even where there is a loss)
263(1)(a)(vi)	Business Trust	
263(1)(a)(vii)	An investment fund as referred to in sec. 224	
263(1)(a)(viii)	A person who has sustained a loss in the tax year under the head "Profits and gains of business or profession" or under the head "Capital gains" and who intends to claim that such loss, or any part thereof, is to be carried forward to subsequent year	
263(1)(a)(iii)	A person other than company and firm	Where income before giving effect to sec. 82 to 88 and chapter VIII (i.e., deduction u/s 123 to 154) exceeds the maximum amount which is not chargeable to income tax.
263(1)(a)(iii)	Chief Executive Officer of a registered Political party	Where income before giving effect to exemption



		under Schedule VIII (Table S. No. 1) exceeds the maximum amount which is not chargeable to income tax.
263(1)(a)(ix)	<p>A resident person (other than not ordinarily resident) who at any time during the tax year:</p> <p>a. holds, as a beneficial owner or otherwise, any asset (including any financial interest in an entity) located outside India, or has signing authority in any account located outside India; or</p> <p>b. is a beneficiary of any asset (including any financial interest in an entity) located outside India, except where any income arising from such asset is includible in the income of person referred above</p>	Irrespective of size of income
263(1)(a)(x)	<p>A person, other than a company or firm, who during the tax year, fulfils any of the following criteria (as given in Rule 163):</p> <p>a) he has deposited an aggregate amount exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or</p> <p>b) he has incurred expenditure of an aggregate amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country<sup>1</sup>; or</p> <p>c) he has incurred expenditure of an aggregate amount exceeding ₹ 1 lakh towards consumption of electricity; or</p>	

<sup>1</sup> Travel to a foreign country does not include travel to the neighbouring countries or to such places of pilgrimage as notified by the Board

	<p>d) his total sales, turnover or gross receipts, as the case may be, in the business exceeds ₹ 60 lakhs during the tax year; or</p> <p>e) his total gross receipts in profession exceeds ₹ 10 lakh during the tax year; or</p> <p>f) the aggregate of TDS and TCS during the tax year, in the case of the person, is ₹ 25,000 or more (in case of senior citizen ₹ 50,000); or</p> <p>g) The deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakh or more during the tax year</p>	
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**Taxpoint**

- *Beneficial owner*, in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.
- *Beneficiary*, in respect of an asset means an individual who derives benefit from the asset during the tax year and the consideration for such asset has been provided by any person other than such beneficiary
- *Specified entity* means:
  - i. Research association referred to in Schedule III (Table: Sl. No. 23);
  - ii. Association or institution referred to in Schedule III (Table: Sl. No. 24);
  - iii. Person referred to in Schedule VII (Table: Sl. No. 2);
  - iv. Institution referred to in Schedule III (Table: Sl. No. 25);
  - v. Any University or other educational institution or any hospital or other medical institution referred to in Schedule VII (Table: Sl. Nos. 17, 18 and 19);
  - vi. Mutual Fund referred to in Schedule VII (Table: Sl. Nos. 20 and 21);
  - vii. Securitisation trust referred to in Schedule III (Table: Sl. No. 26);
  - viii. Investor Protection Fund referred to in Schedule III (Table: Sl. Nos. 28 and 29);
  - ix. Core Settlement Guarantee Fund referred to in Schedule III (Table: Sl. No. 30);
  - x. Venture capital company or venture capital fund referred to in Schedule V (Table: Sl. No. 6);
  - xi. Trade union or association referred to in Schedule III (Table: Sl. No. 31);
  - xii. Board or Authority referred to in Schedule VII (Table: Sl. Nos. 33 to 40);
  - xiii. Body or Authority or Board or Trust or Commission (by whatever name called) referred to in Schedule III (Table: Sl. No. 36);
  - xiv. Infrastructure debt fund referred to in Schedule VII (Table: Sl. No. 46);

- A registered non-profit organisation is required to file return of income if its income without giving exemption under chapter XVII-B, exceeds basic exemption limit – Sec. 349
- Following persons are exempted from the requirement of furnishing return of income under erstwhile Act 1961 vide Notification No. 4207(E), dated 11-10-2021:
  - If a Non-resident/foreign company does not earn any income in India other than income from investment in specified fund referred to in *Explanation (c)(i)* to sec. 10(4D) of the Act 1961.
  - During the year, a non-resident, being eligible foreign investor, has made transaction only in capital asset referred to in sec. 47(viiab) of the Act 1961 which are listed on a recognised stock exchange located in any IFSC and the consideration on transfer of such capital asset is paid or payable in foreign currency.

### Due Date for filing return of income [Sec. 263(1)(c)]

A return should be filed on or before the following due date (of financial year succeeding the relevant tax year)

Assessee	Due date
<ul style="list-style-type: none"> <li>• Where the assessee (including the partners of the firm) is required to furnish a report u/s 172 pertaining to international / specified domestic transaction(s)</li> </ul>	30 <sup>th</sup> November
<ul style="list-style-type: none"> <li>• Where the assessee is a partner<sup>2</sup> in a firm and the said firm is required to furnish report u/s 172 pertaining to international / specified domestic transaction(s)</li> </ul>	30 <sup>th</sup> November
<ul style="list-style-type: none"> <li>• Where the assessee is a company not required to furnish report u/s 172</li> </ul>	31 <sup>st</sup> October
<ul style="list-style-type: none"> <li>• <u>Any other assessee</u> <ul style="list-style-type: none"> <li>– Where accounts of the assessee are required to be audited under any law</li> <li>– Where the assessee is a partner<sup>2</sup> in a firm and the accounts of the firm are required to be audited under any law</li> <li>– Assessee having income from profits and gains of business or profession whose accounts are <b>not</b> required to be audited under any law</li> </ul> </li> </ul>	31 <sup>st</sup> October
	31 <sup>st</sup> August

<sup>2</sup> Also spouse of such partner if the provisions of section 10 applies to such spouse

- Where the assessee is a partner <sup>2</sup> in a firm and the accounts of the firm are <b>not</b> required to be audited under any law	31 <sup>st</sup> August
- In any other case	31 <sup>st</sup> July

## Forms - Return of income

Rule 164 provides following Form for filing return of income for different assessee:

- ITR - 1 (Sahaj) For ordinarily resident Individuals having Income from Salaries, two house property (does not have any brought forward loss or loss to be carried forward), Long term capital gain u/s 198 (not more than ₹ 1,25,000 and does not have any brought forward loss or loss to be carried forward), other sources [Interest, dividend etc. without claiming any expenses other than standard deduction from family pension (not being loss and not being winnings from lottery or income from race horses, etc.) [Few more restrictions as given in Note 1]
- ITR - 2 For Individuals and HUFs not carrying out business or profession under any proprietorship
- ITR - 3 For individuals and HUFs having income from a proprietary business or profession
- ITR - 4 (Sugam) For an individual or a HUF, who is a resident other than not ordinarily resident, or a resident firm, other than limited liability partnership firm deriving income under the head "Profits or gains of business or profession" and such income is computed in accordance with special provisions referred to in sec. 58 or has, Capital gains, if any, where assessee has only long-term capital gains u/s 198 not exceeding ₹ 125000 [Few more restrictions as given in Note 2]
- ITR - 5 For person other than (i) Individual; (ii) HUF; (iii) Company; & (iv) Person filing Form ITR-7
- ITR - 6 For Companies other than companies claiming exemption as registered non-profit organisation
- ITR - 7 For persons including companies claiming exemption u/s 263(1)(a)(iv) / (v), 349, Schedule VIII (Table S. No. 1)
- ITR – A Successor entities required to furnish return u/s 314
- ITR – B Block assessment in case of search and seizure

ITR – U Updated Return u/s 263(6(a))

ITR - V Income Tax Return Verification Form [Where the data of the Return ITR 1 to ITR 5 and ITR – U has transmitted electronically without digital signature]

### Notes

1. ITR – 1 is not applicable in case of a person who:
  - a) is an ordinarily resident and has,—
    - i. assets (including financial interest in any entity) located outside India; or
    - ii. signing authority in any account located outside India; or
    - iii. income from any source outside India
  - b) has total income, exceeding ₹ 50 lakh;
  - c) has income to be apportioned u/s 10
  - d) has claimed deduction u/s 93 while computing IFOS (except standard deduction from family pension)
  - e) has claimed any relief of tax u/s 159 or 160 [i.e. DTAA]
  - f) is a **director** in a company or has held **unlisted equity share** at any time during the tax year
  - g) tax has been deducted on cash deposit in bank [Sec. 393(3) S.No. 5]
  - h) Payment or deduction of tax has been deferred u/s 391(2) and 392(3)
  - i) has agricultural income, exceeding ₹ 5,000;
  - j) has income referred to in sec. 195
2. ITR – 4 is not applicable in case of a person who:
  - a) All the cases mentioned in Note 1 for ITR 1
  - b) owns more than two house properties, the income of which is chargeable under the head "Income from house property"; or
  - c) has any brought forward loss or loss to be carried forward under any head of income

### **Mode of furnishing Income-tax Return**

- a. Paper Return
- b. Electronic Return with Digital Signature
- c. Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V
- d. Transmitting the data electronically in the return under electronic verification code

### Notes

**1. Compulsory E-Return:**

Person	Condition	Mode
Company	-	Electronically with digital sign
Any person	Audit u/s 63 required	- Electronically with digital sign - Transmitting the data electronically in the return under EVC
Individual	<input type="checkbox"/> Age $\geq$ 80 years or more at any time during the tax year; and <input type="checkbox"/> furnishes the return in Form number SAHAJ (ITR-1) or Form number SUGAM (ITR-4)	Any of the given mode
Any other person		Any mode other than paper mode

- In respect of any electronic transmission of return data, the return should be verified through e-verification or submission of ITR-V. Such verification should be done within 30 days from the date of transmitting / uploading the data of return of income electronically.
- Further, where ITR data is electronically transmitted and e-verified / ITR-V submitted within 30 days of transmission of data - in such cases the date of transmitting the data electronically shall be considered as the date of furnishing the return of income. However, where ITR data is electronically transmitted but e-verified or ITR-V submitted beyond the time-limit of 30 days of transmission of data - in such cases the date of e-verification/ITR-V submission shall be treated as the date of furnishing the return of income and all consequences of late filing of return under the Act shall follow.

**Related Return [Sec. 263(4)]**

If an assessee fails to file return within the time limit allowed u/s 263(1)(c), he can file a belated return.

**Time limit:** Assessee may file such return -

- Within 9 months from the end of the relevant tax year; or
- before the completion of assessment (u/s 271),

- whichever is earlier.

However, if an assessee files a belated return, he would be liable to fee u/s 428 and interest u/s 423.

Further, certain profit-based deductions are not available and current year losses (few) are not allowed to be carried forward.

### Fee for default in furnishing return of income [Sec. 428]

Where a person **required to furnish** a return of income u/s 263(1)(a), fails to do so within the due date, he shall pay fee of:

Case	Fee
Total income does not exceed ₹ 5 lakh	₹ 1,000
Total income exceeds ₹ 5 lakh	₹ 5,000

### Revised Return [Sec. 263(5)]

If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he can revise his return u/s 263(5).

**Time limit:** Assessee may file the revised return -

- Within 12 months from the end of the relevant tax year; or
- before completion of regular assessment,

- whichever is earlier.

#### Taxpoint

- Replacement of original return:** Once a revised return is filed, it replaces the earlier return. This signifies that the revised return should be complete in itself and not merely an accessory to the original return.
- Revision of revised return:** A revised return can again be revised i.e. a second revised return can be filed u/s 263(5) for correcting any omission or wrong statement made in the first revised return within specified time.
- Revision of belated return:** A belated return u/s 263(4) can be revised.
- Revision of loss return:** A loss return can be revised
- Fee u/s 428(b):** Where revised return is furnished after 9 months from the end of the relevant tax year, the assessee is required to pay fee:

Case	Fee
Total income does not exceed ₹ 5 lakh	₹ 1,000
Total income exceeds ₹ 5 lakh	₹ 5,000

### Defective or Incomplete Return [Sec. 263(7)]

Under this section, the AO has the power to call upon the assessee to rectify a defective return.

Where the Assessing Officer considers that the return of income furnished by the taxpayer is defective (Rule 166<sup>3</sup>), he may intimate the defect to the taxpayer and give him an opportunity to rectify the defect(s).

**Time limit for rectification:** The assessee must rectify the error within a period of 15 days from the date of intimation (served on the assessee) or within such extended time as allowed by the AO on application being made to him.

**Consequence when defect is not rectified:** If defect is not rectified within the time limit (or extended time), the AO shall treat the return as an invalid return and provisions of the Act will apply as if the taxpayer had failed to furnish the return at all. Where, however, the assessee rectifies the defect after the expiry of 15 days or the further extended period, but before the assessment is made, the AO may condone the delay and treat the return as a valid return.

### Verification of Return [Sec. 265]

The return of income is required to be verified:

Assessee	Case	Verified by
Individual	In general	Individual himself
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf
	Where by any other reason it is not possible for the individual to verify the return.	Any person duly authorised by him through a valid power of attorney
HUF	In general	Karta
	Where the 'karta' is absent from India or is mentally incapacitated	Any adult member of the family.

<sup>3</sup> As per Rule 166, a return shall be considered as defective if all applicable fields, schedules, etc. are not duly filled or Audit report, if applicable, has not furnished (prior to furnishing return) or Updated return furnished, the details of payment of tax not filled or B/f MAT/AMT credit is not as per last return, etc.

Firm	In general	Managing partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner
Limited liability partnership	In general	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such	Any partner or any other prescribed person
Local authority	Principal Officer	
Political party	Chief Executive Officer	
Company	In general	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director or any other prescribed person
	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016	Insolvency professional appointed by such Adjudicating Authority
	Non-resident company	A person holding a valid power of attorney.
	Company in process of winding up	Liquidator of the company
	Where the management of the company has been taken over by the Central or State Government.	Principal officer
Any other association	Any member or principal officer	
Any other person	Such person or any other person competent to act on its behalf.	

**Updated Return [Sec. 139(8A)]**

**Who can file updated return:** Any person, whether or not he has furnished a return for the tax year, may furnish an updated return of his income, for the tax year, in the prescribed form (ITR – U), verified in such manner and setting forth such particulars as may be prescribed.

**Taxpoint**

- If filing an updated return reduces carried-forward losses, unabsorbed depreciation, or tax credits for future years, the assessee shall be required to furnish an updated return for each subsequent tax year affected by the change.
- A person shall also not be eligible to furnish an updated return of income, where
  - a. a search has been initiated u/s 247 or books of account or other documents or any assets are requisitioned u/s 248 in the case of that person
  - b. a survey has been conducted u/s 253, other than sec. 253(4), in the case of that person
  - c. a notice has been issued under section 294 in pursuance to the provisions of section 295, to that person
- An updated return cannot be filed::
  - a. if the updated return is a return of a loss; or  
However, if a loss return was filed on time originally, an updated return is permitted if it reduces the carried-forward loss (converting it to a return of income or a lesser loss).
  - b. if the updated return has the effect of decreasing the total tax liability determined on the basis of return already furnished earlier [in nutshell, a person cannot reduce his tax liability by filing updated return]; or
  - c. if the updated return results in refund or increases the refund due on the basis of return furnished earlier u/s 263(1) or (4) or (5), of such person for the relevant tax year.
  - d. an updated return has already been furnished by him for the relevant tax year; or
  - e. any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant tax year in his case; or  
However, an assessee can file updated return in response to a notice issued u/s 280 (notice for Income Escapement Assessment), which then precludes the assessee from filing a return through any other avenue for that notice.
  - f. the Assessing Officer is in the possession of information in respect of such person for the said tax year regarding violation of specified laws and the same has been communicated to him prior to the date of furnishing of updated return
  - g. information for the said tax year has been received under an agreement referred to in section 159 in respect of such person and the same has been communicated to him, prior to the date of furnishing of updated return

- h. any prosecution proceedings under the Chapter XXII have been initiated for the said tax year in respect of such person, prior to the date of furnishing of updated return
- i. 48 months have expired from the end of the relevant tax year, and any notice to show-cause u/s 281 has been issued in his case,  
However, updated return can be filed where an order has been passed u/s 281(3) determining that it is not a fit case to issue notice u/s 280;
- j. he is such person or belongs to such class of persons, as may be notified by the Board in this regard.

**Time limit for filing updated return:** At any time within 48 months from the end of the financial year succeeding the relevant tax year.

### **Tax on updated return [Sec. 267]**

#### **A. Where assessee has not furnished return earlier**

Where no return of income u/s 263(1) or (4) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee, after taking into account:

- i. the amount of tax, if any, already paid as advance tax;
- ii. TDS or TCS;
- iii. any relief u/s 157;
- iv. any relief u/s 159 or 160 on account of tax paid in a country outside India;
- v. any tax credit claimed to be set off in accordance with the provisions of sec. 206(2) (e) to (h) and sec. 206(3) and (4),

the assessee shall be liable to pay such tax together with interest and fee payable for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of **additional income-tax**, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

**Taxpoint:** In a case, where no earlier return has been furnished, the interest payable u/s 423 has to be computed on the amount of the tax on the total income as declared in the updated return, in accordance with the provisions of sec. 266.

#### **B. Where assessee has furnished return earlier**

Where, return of income u/s 263(1) or (4) or (5) (referred to as earlier return) has been furnished by an assessee and tax is payable on the basis of updated return to be furnished by such assessee after taking into account:

- i. the amount of relief or tax referred to in sec. 266(1), the credit for which has been taken in the earlier return;

- ii. TDS or TCS on any income which is taken into account in computing total income and which has not been included in the earlier return;
- iii. any relief claimed u/s 159 or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;
- iv. any tax credit claimed, to be set off in accordance with the provisions of sec. 206(2) (e) to (h) and sec. 206(3) and (4), which has not been claimed in the earlier return;

the assessee shall be liable to pay such tax together with interest for any default or delay in payment of advance tax along with the payment of **additional income-tax** as reduced by the amount of interest paid in the earlier return, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

### Taxpoint

- Interest payable u/s 425, where an earlier return has been furnished, has to be computed after taking into account the total income furnished in the updated return as returned income
- In a case where an earlier return has been furnished, interest payable u/s 424 has to be computed on the assessed tax.

“Assessed tax” means the tax on the total income as declared in the updated return,

- a. after taking into account the following:
  - i. the amount of relief or tax referred to in sec. 266(1), the credit for which has been taken in the earlier return, if any;
  - ii. the tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;
  - iii. any relief claimed u/s 159 or 160 on account of tax paid in a country outside India on such income which has not been included in the earlier return;
  - iv. any tax credit claimed, to be set off in accordance with the provisions of sec. 206(2) (e) to (h) and sec. 206(3) and (4), which has not been claimed in the earlier return; and
- b. as increased by the amount of refund, if any, issued in respect of such earlier return,

### Computation of Additional Income Tax

The additional income-tax payable at the time of furnishing the updated return shall be:

if such return is furnished after expiry of	Additional income tax payable at the time of furnishing updated return being aggregate of tax (+ surcharge + cess) and
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	interest payable (as reduced by interest paid in earlier return) on tax calculated above
- the time available u/s 263(4) or (5) <b>and</b> before completion of the period of 12 months from the end of the financial year succeeding the relevant tax year	25%
- after the expiry of aforesaid time but before completion of the period of 24 months from the end of the financial year succeeding the relevant tax year	50%
- after the expiry of aforesaid time but before completion of the period of 36 months from the end of the financial year succeeding the relevant tax year	60%
- after the expiry of aforesaid time but before completion of the period of 48 months from the end of the financial year succeeding the relevant tax year	70%

**Taxpoint:** Where an updated return is filed in pursuance of a notice issued u/s 280 within the period specified in the said notice, aforesaid additional income-tax payable shall be increased by a further sum of 10% of the aggregate of tax and interest payable [i.e., instead of 25%, additional tax payable would be 35% and so on]

### Self-Assessment [Sec. 266]

In self-assessment, assessee itself is responsible to determine its taxable income, tax liability and to pay tax accordingly. Provision of sec. 266 is as follows -

- a) Where any tax is payable (after deducting relief, rebate, advance payment of tax or tax deducted or collected at source or MAT or AMT credit, if any, or any tax or interest payable) on the basis of return furnished the assessee is required to pay such tax before filing the return.

**Taxpoint:** *A return furnished without paying self-assessment tax & interest, if any, shall be treated as defective return.*

- b) If any interest is payable for delayed filing of return (u/s 423) or default in payment of advance tax (u/s 424) or for deferment of advance tax (u/s 425) or fee (u/s 428) is payable for filing return after due date, then such interest or fee should be paid along with self-assessment tax.

**Note:** While calculating above interest for the purpose of self-assessment, tax on the total income declared in the return shall be considered.

- c) Where the amount paid by the assessee falls short of the aggregate of tax, interest and fee, the amount so paid shall first be adjusted towards fee and thereafter towards interest payable and the balance, if any, shall be adjusted towards tax payable.

- d) After regular assessment, any amount paid under this section shall be deemed to have been paid towards such assessment.
- e) If an assessee fails to pay whole or any part of such tax or interest or both in accordance with the provisions of sec. 266, he shall be deemed to be an *assessee in default*.

### Section Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Return	139	263
Return by whom to be verified	140	265
Self Assessment	140A	266
Tax on updated return	140B	267



## INTIMATION

### **Intimation [Sec. 270(l) to (7)] [Old Sec. 143(l)]**

Where a return has been made u/s 263 or in response to a notice u/s 268(1), such return shall be processed in the following manner, namely:

- a. the total income or loss shall be computed after making the following adjustment:
  - i. any arithmetical error in the return;
  - ii. an incorrect claim, if such incorrect claim is apparent from any information in the return;
  - iii. any such inconsistency in the return, with respect to the information in the return of any preceding tax year, as may be prescribed
  - iv. disallowance of loss claimed, if return of the tax year for which set off of loss is claimed was furnished after the due date;
  - v. disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return;
  - vi. disallowance of deduction claimed under any of the provisions of Chapter VIII under the heading "C.—Deductions in respect of certain incomes", if the return is furnished after the due date;
- b. the tax, interest and fee, if any, shall be computed on the total income computed above;
- c. the sum payable by (or the amount of refund due to), the assessee shall be determined after adjustment of the tax, interest and fee, if any, by any TDS, TCS, advance tax paid, any rebate or relief, tax paid on self-assessment and any amount paid otherwise by way of tax, interest or fee;
- d. an intimation shall be sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee; and
- e. the amount of refund due to the assessee in pursuance of the determination shall be granted to the assessee.
- f. An intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest or fee is payable by, or no refund is due to, him.

*Time limit for intimation:* No intimation shall be **sent** after the expiry of 9 months from the end of the financial year in which the return is made.

#### **Taxpoint**

- *An incorrect claim apparent from any information in the return* shall mean a claim, on the basis of an entry, in the return,—
- a) of an item, which is inconsistent with another entry of the same or some other item in such return;

- b) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or
  - c) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;
- The acknowledgment of the return shall be deemed to be intimation where either no sum is payable by the assessee or no refund is due to him or no adjustment of loss is required.
- Before making any adjustment:
- a. a communication is to be given to the assessee of such adjustments either in writing or in electronic mode;
  - b. the response received from the assessee in this regard, if any, shall be considered; and in a case where no response is received within 30 days of the issue of such communication, such adjustments shall be made and thereafter the intimation shall be sent.

# INTEREST

## Important notes regarding calculation of interest

Following points are to be noted regarding calculation of interest, whether such interest is receivable from or payable to the Central Government (Rule 269):

### 1. Rounding off the amount on which interest is to be calculated

Amount on which such interest is calculated will be rounded off to the multiple of 100 by ignoring any fraction of 100. E.g., amount on which interest is to be calculated is ₹ 240 or ₹ 290, then it is to be rounded off to ₹ 200 by ignoring fraction of ₹ 40 or ₹ 90.

### 2. Rounding off the period for which interest is to be calculated

- When interest is calculated on monthly basis, any fraction of the month shall be taken as full month. E.g., Interest is to be calculated from 1<sup>st</sup> August to 5<sup>th</sup> December, then interest shall be calculated for 5 months.
- When interest is calculated on annual basis, any fraction of the month shall be ignored.

## Interest for default in furnishing return of income [Sec. 423] [Old 234A]

Condition: Where a person, who is required to furnish return of income -

- a) fails to furnish a return; or
- b) furnishes it after the due date specified u/s 263(1).

Amount on which interest is to be charged: On the amount of tax determined u/s 270(1) or on regular assessment as reduced by advance tax paid and tax deducted or collected at source, if any.

In other words, interest is to be calculated on the following amount:

Particulars	Amount	Amount
Tax determined u/s 270(1) or on Regular assessment		***
<i>Less:</i> Advance Tax paid	***	
Relief u/s 157 or 159 or 160	***	
Credit allowed u/s 206(2)(e) to (h) and 206(3) and 206(4)	***	
Tax deducted/collected at source	***	***
<b>Amount for interest calculation</b>		***

Rate of Interest: Simple interest @ 1% per month or part thereof

Period: For every month or part of a month commencing from the day immediately following the due date for furnishing return for the relevant assessment year and ending on -

- Where the return is furnished after due : Date of furnishing return date

### 18.1

- Where the return is not furnished at all : Date of completion of assessment u/s 271

### **Taxpoint**

1. For the purpose of self-assessment u/s 266, interest shall be calculated on tax liability as declared in the return by the assessee.
2. As interest liability u/s 423 is different, in case of assessment by assessee himself (i.e. self- assessment) and assessment made by income tax authority (i.e. assessment u/s 270(1) or regular assessment), therefore, interest paid u/s 423 at the time of self-assessment shall be reduced from final interest liability u/s 423.
3. No interest u/s 423 is levied on the amount of self-assessment tax paid by the assessee before the due date of filing of return of income [Circular No 2/2015 dated 10/2/ 2015]
4. **Updated Return u/s 263(6)**: Where an assessee has not filed any return u/s 263(1) or 263(4) and he is filing an updated return u/s 263(6), then, interest u/s 423 is payable on tax computed on the total income as declared in the updated return for the period commencing from the date immediately following the due date of filing original return and ending with the date on which the updated return is furnished.
5. **Adjustment in interest**: Where amount is reduced or increased by an order u/s 287, 288, 359, 363, 365(10), 368, 378, the amount of interest shall be reduced or increased accordingly.
6. **Reassessment**: Where -
  - a) a return of income is required to be furnished due to notice u/s 280 (second and subsequent time); &
  - b) assessee fails to furnish such return within time allowed under that section or fails to furnish return of income at all,- then, assessee shall be liable to pay simple interest @ 1% for every month or part thereof.

**Amount on which interest is to be charged**: On the amount by which tax on total income as per sec. 279, exceeds the tax on the total income determined on the basis of earlier assessment

**Period**: Commencing on the day immediately following the expiry of the time allowed under that notice and ending on –

- Where the return is furnished after the : Date of furnishing return expiry of time allowed
- Where the return is not furnished at all : Date of completion of reassessment u/s 279

**Illustration 1**

Calculate interest u/s 423 in the following cases –

Name of the assessee	A	A Ltd.	B
Due date of furnishing return	31 <sup>st</sup> July	31 <sup>st</sup> October	31 <sup>st</sup> July
Date of filing return	4 <sup>th</sup> December	28 <sup>th</sup> December	Not filed
Date of completion of the assessment (2028)	1 <sup>st</sup> March	15 <sup>th</sup> April	15 <sup>th</sup> Feb
Income as per return	₹ 18,80,000	₹ 5,00,000	--
Assessed Income	₹ 19,10,000	₹ 5,50,000	₹ 22,00,000
Advance tax paid	₹ 39,000	₹ 25,000	₹ 10,000
Tax deducted at source	₹ 50,000	₹ 15,000	₹ 50,000

Ignore interest under any other section.

**Solution**

Computation of interest u/s 423

Particulars	Code	A	A Ltd.	B
Period of default	A <sup>#</sup>	5 months (Aug. to Dec.)	2 months (Nov. to Dec.)	7 months (Aug. to Feb.)
Assessed Income	B	19,10,000	5,50,000	22,00,000
Tax rate	C	Slab-rate	30%	Slab rate
Tax liability before surcharge	D=B*C	1,82,000	1,65,000	2,50,000
Rate of Surcharge	E	Nil	Nil	Nil
Surcharge	F=D*E	Nil	Nil	Nil
Tax and surcharge payable	G=D+F	1,82,000	1,65,000	2,50,000
Health & Education cess	H=G*4%	7,280	6,600	10,000
Tax liability on assessed income	I=G+H	1,89,280	1,71,600	2,60,000
Less: Advance tax paid & tax deducted at source	J	89,000	40,000	60,000
Shortfall	K=I-J	1,00,280	1,31,600	2,00,000
Rounded off	L	1,00,200	1,31,600	2,00,000
<b>Interest (1% * A * L)</b>		<b>5,010</b>	<b>2,632</b>	<b>14,000</b>

<sup>#</sup> When interest is calculated on monthly basis, any fraction of the month shall be taken as full month.

**Interest for default in paying advance tax [Sec. 424] [Old 234B]**
**Condition:** Where a person, who is required to pay advance tax, fails to pay -

- (a) advance tax at all; or
- (b) 90% of assessed tax as advance tax.

**Amount on which interest is to be charged –**

Particulars	Interest
Where no tax is paid u/s 266	Assessed tax – Advance tax paid

Where tax is paid u/s 266	
Period upto the date on which tax as per self-assessment is paid	Assessed tax – Advance tax paid
Period after the date on which the tax as per self assessment is paid	Assessed Tax – Advance tax paid - Tax paid on Self Assessment*
# Assessed tax means tax determined u/s 270(1) or Regular assessment as reduced by <ul style="list-style-type: none"> <li>- Tax deducted or collected at source;</li> <li>- Relief allowed u/s 157 or 159 or 160;</li> <li>- Credit allowed u/s 206(2)(e) to (h) and 206(3) and 206(4)</li> </ul>	
* Where amount paid under self-assessment falls short of tax and interest calculated as per self-assessment, then amount paid shall be first adjusted towards interest and balance, if any, shall be adjusted towards tax payable.	

**Rate of interest:** Simple interest @ 1% per month or part thereof

**Period:** For every month or part of a month commencing from 1<sup>st</sup> day of April of the relevant assessment year and ending on the date of determination of tax u/s 270(1) or on regular assessment.

**Taxpoint**

1. For the purpose of self-assessment u/s 266, interest shall be calculated on tax as per income shown in the return.
2. As interest liability u/s 424 is different in case of assessment by assessee himself (i.e. self- assessment) and assessment made by income tax authority (i.e. assessment u/s 270(1), regular assessment), therefore interest paid u/s 424 at the time of self-assessment shall be reduced from final interest liability u/s 424.
3. **Updated Return u/s 263(6):** Where an assessee has filed any return u/s 263(1) or 263(4) and he is filing an updated return u/s 263(6), then, assessed tax means the tax on the total income as declared in the updated return as reduced by advance tax, the credit for which has been claimed in the earlier return, if any and TDS/TCS, tax credit, DTAA relief, etc. Further, assessed tax shall be increased by the amount of refund, if any, issued to the assessee in respect of such earlier return.
4. **Reassessment:** Where as a result of an order of reassessment or recomputation u/s 279, the amount on which interest is payable is increased, the assessee shall be liable to pay simple interest @ 1% for every month or part thereof.

**Amount on which interest is to be charged:** Such interest shall be payable on the amount by which tax on total income exceeds the tax on total income determined on the basis of earlier assessment.

**Period -**

Commencing on : 1<sup>st</sup> day of the relevant assessment year

Ending on : Date of the reassessment or recomputation u/s 279

5. **Adjustment in interest:** Where amount is reduced or increased by an order u/s 287, 288, 359, 363, 365(10), 368, 378, the amount of interest shall be reduced or increased accordingly.

**Illustration 2**

A firm furnished its return of income on 30<sup>th</sup> June, 2027 showing income of ₹ 1,00,000. The return shows other particulars as follows -

Advance tax            ₹ 20,000  
TDS                     ₹ 1,000

The AO passed the assessment order enhancing income by ₹ 5,000 on 29-3-2028. Compute interest u/s 424.

**Solution**

Computation of interest u/s 424

Particulars	Amount
Assessed Income	1,05,000
Tax liability before surcharge [₹ 1,05,000 x 30%]	31,500
Add: Health & Education cess @ 4%	1,260
Tax and cess payable	32,760
Less: Tax deducted at source	1,000
Assessed tax	31,760
90% of above	28,584
Advance tax paid	20,000
Since advance tax paid by the firm is less than 90% of assessed tax, sec. 424 is applicable	
Shortfall (Assessed tax less Advance tax paid)	11,760
Rounded off	11,700
Period of default [From April 2027 to March 2028]	12 months
Interest u/s 424 (1% x ₹ 11,700 x 12)	1,404

**Illustration 3**

How shall your answer differ if the assessee pays ₹ 10,200 as self-assessment tax along with return. Ignore interest u/s 425.

**Solution**

Computation of interest u/s 424

Particulars	As per	
	Assessed income	Returned income
Income	1,05,000	1,00,000
Tax on above (including cess)	32,760	31,200
Less: TDS and Advance tax	21,000	21,000

Shortfall for the period April' 2027 to June' 2027	11,760	10,200
Rounded off (a)	11,700	10,200
Period of default (b) [From April' 2027 to June' 2027]	3 months	3 months
Interest u/s 424 (1% x a x b)	351	306
<u>Shortfall for the period July' 2027 to March' 2028</u> (₹ 11,760 – ₹ 9,894 as paid u/s 266) [Note]	1,866	
Rounded off (c)	1,800	
Period of default (d) [From July' 2027 to March' 2028]	9 months	
Interest u/s 424 (1% x c x d)	162	

**Note**

Since, shortfall till June 2027 is ₹ 11,760 and thereafter assessee has paid ₹ 9,894 [i.e. ₹ 10,200 (amount paid u/s 266) – ₹ 306 (interest u/s 424 for the purpose of sec. 266)], hence interest shall be calculated on the following -

- For the period April' 27 to June' 27 - On ₹ 11,760
- For the period July' 27 to March' 28 - On ₹ 1,866

Statement showing interest payable u/s 424

Particulars	Amount
For the period April to June	351
For the period July to March	162
	513
<i>Less: Interest paid on self-assessment</i>	306
Interest payable	207

**For deferment of Advance Tax [Sec. 425] [Old 234C]**

**Condition:** Payment of advance tax is to be made as per the schedule (mentioned in the chapter "Advance Tax"). In case assessee fails to pay the amount or pays lesser amount as required by the schedule, then assessee will have to pay interest u/s 425 for such deferment.

**Amount on which interest is payable:**

Specified % of tax* on the total income declared in the return filed by the assessee	***
<i>Less: Tax deducted/collected at source</i>	***
<i>Less: Amount of advance tax paid on or before the due date of payment as per the advance tax payment schedule.</i>	***
<i>Less: Relief allowed u/s 157 or 159 or 160</i>	***
<i>Less: Credit allowed u/s u/s 206(2)(e) to (h) and 206(3) and 206(4)</i>	***
<b>Amount on which interest shall be calculated</b>	***

\* Specified % of tax for calculation of interest under this section

Assessee	Due date of installment (of tax year)	Minimum amount payable
An eligible assessee in respect of an eligible business or profession referred to in sec. 58(2) [Table Sl. No. 1 & 3]	On or before March 15	100% of advance tax liability
Other Assessee	On or before June 15	Upto 15% of advance tax liability
	On or before September 15	Upto 45% of advance tax liability
	On or before December 15	Upto 75% of advance tax liability
	On or before March 15	Upto 100% of advance tax liability

**Taxpoint**

- Where an assessee has paid 12% or more of tax as advance tax on or before June 15, then no interest u/s 425 is payable.
- Where an assessee has paid 36% or more of tax as advance tax on or before September 15, then no interest u/s 425 is payable.

**Rate of interest:** Simple interest @ 1% per month or part thereof

**Period:** 3 months (1 month for last instalment)

**Other Points**

- ✳ **Updated Return u/s 263(6):** Where an assessee has filed any return u/s 263(1) or 263(4) and he is filing an updated return u/s 263(6), then, interest u/s 425 shall be computed after considering the total income furnished in the updated return as the returned income.
- ✳ No interest will be levied in respect of any shortfall in the payment of advance tax due on the returned income, if -
  - a) The shortfall is on account of under-estimation or failure to estimate the amount of:
    - i. capital gains; or
    - ii. income of the nature referred to in section 2(49)(n) [i.e. lottery, cross-word, etc.];
    - iii. income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time;
    - iv. dividend; or
  - b) The assessee has paid the whole of the amount of tax payable in respect of such income as part of the remaining installment(s) of advance tax which were due or where no installment is due, by March 31 of the tax year.

**Illustration 4**

A firm made the following payments of advance tax during the financial year 2026-27:

	<b>₹ in lakh</b>
September 15, 2026	7.00
December 15, 2026	7.75
March 15, 2027	10.75
	<b>25.50</b>

The return of income is filed on 31-7-2027 showing -

Business income	₹ 80 lakh
Long term capital gain taxable @ 12.5% (as on 1-12-2026)	₹ 10 lakh

Compute interest payable u/s 425.

**Solution**

Computation of tax liability for tax year 2026-27

₹ in lakh

Particulars	Business income	Long term capital gain
Income	80.00	10.00
Tax rate	30%	12.50%
Tax liability before cess	24.00	1.25
Add: Health & Education cess	0.96	0.05
Tax liability including cess	24.96	1.30

Computation of interest payable u/s 425

Particulars	Installment of Advance tax			
	15/6/2026	15/9/2026	15/12/2026	15/3/2027
Rate of Advance tax	15%	45%	75%	100%
<u>Amount payable</u>				
(₹ 24,96,000 x 15%)	3,74,400			
(₹ 24,96,000 x 45%)		11,23,200		
[(₹ 24,96,000 + ₹ 1,30,000) x 75%]			19,68,500	
[(₹ 24,96,000 + ₹ 1,30,000) x 100%]				26,26,000
Less: Amount paid till date	Nil	7,00,000	14,75,000	25,50,000
Shortfall	3,74,400	4,23,200	4,93,500	76,000
Rounded off (a)	3,74,400	4,23,200	4,93,500	76,000
Period of default (b)	3 months	3 months	3 months	1 month
Interest (1% x a x b)	₹ 11,232	₹ 12,696	₹ 14,805	₹ 760

<b>Total interest payable u/s 425</b>	<b>₹ 39,493</b>
---------------------------------------	-----------------

**Illustration 5**

A Ltd. made the following payments of advance tax during the financial year 2026-27:

	<u>₹ in lakh</u>		<u>₹ in lakh</u>
June 15, 2026	3.70	September 15, 2026	3.50
December 15, 2026	10.25	March 18, 2027	8.80

The return of income is filed on 31-7-2027 showing -

Business income	₹ 80 lakh
Long term capital gain taxable @ 12.50% (as on 1-12-2026)	₹ 10 lakh

Compute interest payable u/s 425.

**Solution**

Computation of tax liability for the tax year 2026-27 (₹ in lakh)

Particulars	Business income	Long term capital gain
Income	80.00	10.00
Tax rate	30%	12.50%
Tax liability before surcharge	24.00	1.25
Add: Surcharge	Nil	Nil
Tax liability after surcharge	24.00	1.25
Add: Education cess	0.96	0.05
<b>Tax liability after surcharge and cess</b>	<b>24.96</b>	<b>1.30</b>

Computation of interest payable u/s 425

Particulars	Installment of Advance tax			
	15/6/2026	15/9/2026	15/12/2026	15/3/2027
Rate of Advance tax	15%	45%	75%	100%
<u>Amount payable</u>				
(₹ 24,96,000 x 15%)	3,74,400			
(₹ 24,96,000 x 45%)		11,23,200		
[(₹ 24,96,000 + ₹ 1,30,000) x 75%]			19,68,500	
[(₹ 24,96,000 + ₹ 1,30,000) x 100%]				26,26,000
Less: Amount paid till date	3,70,000	7,20,000	17,45,000	17,45,000 <sup>3</sup>
Shortfall	Nil <sup>1</sup>	4,03,200	2,23,500	8,81,000
Rounded off (a)	Nil	4,03,200	2,23,500	8,81,000
Period of default (b)	--	3 months	3 months	1 month

Interest (1% x a x b)	--	₹ 12,096	₹ 6,705	₹ 8,810
<b>Total interest payable u/s 234C</b>	<b>₹ 27,611</b>			

1. Since assessee has paid at least 12% of tax (i.e. ₹ 2,99,520) on or before 15<sup>th</sup> June, 2026, hence no interest u/s 425 shall be levied.
2. Since assessee fails to pay 36% of tax (i.e. ₹ 8,98,560) on or before 15<sup>th</sup> September, 2026, hence interest u/s 425 shall be levied. It is to be noted that interest shall be payable considering 45% of tax.
3. As payment has not been made within due date, hence advance tax paid on 18-03-2027 has not been considered.

### **Interest for excess refund granted to the assessee [Sec. 426] [Old 234D]**

**Condition:** Where any refund is granted to the assessee u/s 270(1) and –

- a) no refund is due on regular assessment; or
- b) the amount refunded exceeds the amount refundable on regular assessment;

**Rate of interest:** Simple interest @ ½% for every month or part of the month

**Amount on which interest is to be charged:** On the whole or excess amount refunded

**Period:** From the date of grant of refund to the date of such regular assessment

**Adjustment in interest:** Where amount of refund is reduced or increased by an order u/s 287, 288, 359, 363, 365(10), 368, 378, the amount of interest shall be reduced or increased accordingly.

### **Fee for defaults in furnishing statements [Sec. 427] [Old 234E]**

**Condition:** Where a person fails to deliver a quarterly TDS / TCS return within the prescribed time.

**Amount of Fee:** ₹ 200 for every day during which the failure continues subject to maximum of amount of TDS / TCS

**Note:**

- The fee shall be paid before delivering a statement.
- The fee is in addition to other consequences of non-delivering such return

### **Interest for failure to pay tax according to demand notice [Sec. 41(3)] [Old 221]**

Any amount specified as payable in a notice of demand u/s 289 should be paid within 30 days (or lesser period as specified by the Assessing Officer with prior approval of Joint Commissioner) of the service of the notice.

**Condition:** Any person fails to pay such amount within such time

**Rate of interest:** Simple interest @ 1% for every month or part thereof.

**Amount on which interest is to be charged:** On the amount specified in the notice of demand.

**Period:** Interest shall be charged for a period commencing from the day immediately after the expiry of 30 days (or specified period<sup>1</sup>) and ending on the day on which such amount is paid.

**Taxpoint**

1. Where the Assessing Office has any reason to believe that it will be detrimental to revenue if the full period of 30 days is allowed, then he may with the previous approval of the Joint Commissioner direct that the sum specified in the notice of demand shall be paid within such time as may be specified by him in the notice. In such case interest shall be calculated for a period commencing from the end of the period specified in the notice.
2. Where interest is charged u/s 398(3) on the amount of tax specified in the intimation issued u/s 399 for any period, then, no interest shall be charged under this section on the same amount for the same period.
3. **Adjustment in interest:** Where amount is reduced or increased by an order u/s 287, 288, 359, 363, 365(10), 368, 378, the amount of interest shall be reduced or increased accordingly.



# REFUND

## Meaning [Sec. 431]

If any person satisfies the Assessing Officer that the amount of tax paid by him (or on his behalf) for any tax year, exceeds the amount with which he is chargeable under this Act, then he shall be entitled to a refund of such excess amount.

## Who can claim refund

Following person can claim refund -

1. A person who has paid tax more than the amount for which he is chargeable under this Act;
2. Where the income of one person is included in the total income of other person, such other person is entitled to claim refund on tax paid on such income [Sec. 432(1)]
3. Where due to death, incapacity, insolvency, liquidation or any other cause, a person is unable to claim or receive any refund due to him, his legal representative, trustee, guardian or receiver, as the case may be, can claim and receive such refund for the benefit of such person or his estate [Sec. 432(2)]

## Form and Time limit for claiming refund [Sec. 433]

Every claim for refund shall be made by furnishing return in accordance with the provisions of sec. 263.

## Refund on Appeal, etc. [Sec. 435]

Where any refund becomes due as a result of any order passed in appeal or other proceedings, the Assessing Officer shall refund the amount to the assessee *suomoto* i.e. without any claim being made by the assessee in this behalf. Such refund shall become due on –

Case	When refund becomes due
Where an assessment is set aside or cancelled and an order of fresh assessment is directed to be made	The refund shall become due on completion of such fresh assessment
Where the assessment is annulled	The refund shall become due when such assessment is annulled. The refund shall be only of the amount of the tax paid in excess of tax as per return.

### **Correctness of assessment not to be questioned [Sec. 436]**

In a claim of refund, it shall not be open to the assessee to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same, and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

### **Set-off and withholding of refund in certain cases [Sec. 438]**

Where refund becomes due or is found to be due to any person, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable by the person to whom the refund is due. However, such action can be taken after giving an intimation in writing to such person.

*Withholding in Anticipation of tax liability:* Where a part of the refund is set off or where no such amount is set off, and refund becomes due to a person, and the Assessing Officer, having regard to the fact that proceedings for assessment or reassessment are pending in the case of such person, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, as the case may be, withhold the refund upto 60 days from the date on which such assessment or reassessment is made

### **Refund for denying liability to deduct tax in certain cases [Sec. 434]**

- Where,—
  - a. under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest in sec. 393(2) (Table: Sl. No. 17), is to be borne by the person by whom the income is payable; and
  - b. such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income,he may, within 30 days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner, as may be prescribed.
- The Assessing Officer shall, by an order in writing, allow or reject the application after giving an opportunity of being heard and making such inquiry as he considers necessary.
- Such order shall be passed within 6 months from the end of the month in which application is received.

### **Interest on Refund [Sec. 434]**

An assessee who is entitled to get refund shall also be entitled to interest on such refund. Provision relating to interest is enumerated below -

**Rate of interest:** Simple interest @  $\frac{1}{2}\%$  per month or part thereof

**Period for calculation of interest**

Case	Period
1. Refund is out of TDS or TCS or Advance tax (Note 1)	
– Where return of income is furnished within due date	From first day of April of the year following tax year to the date on which such refund is granted.
– Where return is after due date	From the date of furnishing return to the date on which such refund is granted.
2. Refund is out of self-assessment tax (Note 1)	From the date of furnishing return or payment of tax, whichever is later to the date on which such refund is granted.
3. Refund arises as a result of an order passed by the AO in consequences of an application made by the assessee u/s 288	From the date of such application to the date on which such refund is granted.
4. Refund due to excess payment of TDS by deductor	From the date on which claim for refund is made (however, where refund arises on account of giving effect to an order u/s 359 or 363 or 365(10) or 368, from date of payment of tax) to the date on which refund is granted.
5. Refund due to any other reason	From date of payment of such tax to the date on which such refund is granted.

**Notes**

1. **Interest on refund due to TDS or TCS or self-assessment tax:** In case (1) and (2), no interest on refund shall be allowed if the amount of refund is less than 10% of the tax determined u/s 270(1) or on regular assessment.
2. **Interest on Refund arising out of giving effect to an order:** In a case where a refund arises as a result of giving effect to an order u/s 359 or 363 or 365(10) or 368 or 377 or 378, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive, in addition to the interest payable (as aforesaid), an additional interest on such amount of refund calculated at the rate of 3% p.a., for the period beginning from the date following the date of expiry of the time allowed u/s 286(1) [Table Sl. Nos. 9 & 10] to the date on which the refund is granted.

However, where proceedings for assessment or reassessment are pending in respect of an assessee, in computing the period for determining the additional interest payable to such assessee, the period beginning from the date on which such refund is withheld by the Assessing Officer u/s 438(3) and ending with the date up to which such refund is withheld, shall be excluded.

3. **Taxability of refund and interest on refund:** It is to be noted that refund of tax itself is not taxable. However, interest received on delayed refund is taxable under the head “Income from other sources”.
4. **Adjustment in interest:** Where tax payable is reduced or enhanced by an order u/s 270(10) or 271 or 279 or 287 or 288 or 359 or 363 or 365(10) or 368 or 377 or 378, the amount of interest shall be reduced or enhanced accordingly.
5. **Delay in refund due to reason attributable to the assessee:** Where the refund is delayed for the reason attributable to the assessee (or deductor), the period of delay so attributable to him shall be excluded from the period for which interest is payable. Further, where any question arises as to the period to be excluded, it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision shall be final.

## Section Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Refund	237	431
Person entitled to claim refund in certain special cases	238	432
Form of claim for refund and limitation	239	433
Refund for denying liability to deduct tax in certain cases	239A	434
Refund on appeal, etc.	240	435
Correctness of assessment not to be questioned	242	436
Interest on refunds	244A	437
Set off and withholding of refunds in certain cases	245	438

## PENALTIES

Penalty is imposed on an assessee for violating the different provisions of the Act. The provisions of penalty are tabulated below:

Section	Nature of default	Penalty	
		Minimum	Maximum
412	Failure in making the payment of tax, interest or any demand within the prescribed time limit	Amount decided by the Assessing Officer	Tax in arrears
266(8)	Failure to pay whole or any part of income tax and/or interest as per sec. 266(1)		
298	Determination of undisclosed income for the block period (Search cases)	50% of the tax payable on such undisclosed income	
439	Penalty for under-reporting and misreporting of income	50% of the tax on under-reported income	200% of the tax on misreported income
441	Failure to comply with sec. 62 i.e. to keep or maintain books of account, documents, etc.	₹ 25,000	
442(1)	Failure to keep and maintain, information and documents for international transactions or specified domestic transaction or fails to report such transaction	2% of the value of each international transaction or specified domestic transaction	
442(2)	Fails to furnish the information and the document as required u/s 171(4)	₹ 5,00,000	

<p>444</p>	<p>If during any proceeding under this Act, it is found that in the books of account maintained by any person there is:</p> <p>a. a false entry; or</p> <p>b. an omission of any entry which is relevant for computation of total income of such person, to evade tax liability,</p> <p>Further, similar penalty may also be levied on any other person, who causes the assessee in any manner to make a false entry or omits any entry</p> <p>"False entry" includes use or intention to use—</p> <ul style="list-style-type: none"> <li>• forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or</li> <li>• invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or</li> <li>• invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.</li> </ul>	<p>A sum equal to the aggregate amount of such false or omitted entry.</p>
<p>445</p>	<p>A person being a registered non-profit organisation has any specified income which is chargeable to tax as per section 337 (Table: Sl. No. 2), applied such income, directly or indirectly, for the benefit of any related person referred to in section 355(h)</p>	<p><b><u>First time violation</u></b> 100% of the aggregate amount of income so applied</p> <p><b><u>Second and subsequent violation</u></b> 200% of the aggregate amount of income so applied</p>

446(1)	Any person who is required to furnish a statement in respect of a trans- action of a crypto-asset u/s 509(1)	₹ 200 per day for which such failure continues
446(2)	If aforesaid person provides inaccurate information in the statement and fails to remove such inaccuracy as per sec. 509(4) or fails to comply with due diligence the requirement u/s 509(5)	₹ 50,000
448	Failure to deduct part or whole of tax under chapter XIX-B (i.e., TDS)	Amount of tax failed to deduct
	Failure to pay or ensure payment of tax as required by or under a. Note 2 below the Table in sec. 393(3); or b. Note 6 to sec. 393(1) (Table: Sl. No. 8)	Amount of tax failed to pay or ensure payment thereof
449	Failure to collect tax at source	Amount of tax failed to collect
450	Taking or accepting any loan or deposit or specified sum in contravention of the provisions of sec. 185	Amount of the loan or deposit or specified sum so taken/accepted However, if the assessee proves that there was reasonable cause for the failure, then penalty shall not be levied
451	Receives any sum in contravention of sec. 186	Amount equal to such receipt
452	Failure to provide facility for electronic mode of payment prescribed u/s 187	₹ 5,000 per day

453	Repayment of any loan or deposit or specified advance in contravention of the provisions of sec. 188	Amount of loan or deposit or specified advance so repaid. However, if the assessee proves that there was reasonable cause for the failure, then penalty shall not be levied	
454	Where any person, who is required to furnish a statement of financial transaction or reportable account u/s 508(1), fails to furnish such statement or reportable account within the period specified in the notice issued u/s 508(7)	₹ 1,000 for every day during which the failure continues	₹ 1,00,000
455(1)	Where a person, who is required to furnish a statement u/s 508(1) (a) provides inaccurate information in the statement or fails to furnish correct information within the period specified u/s 508(8) ; or (b) fails to comply with the due diligence requirement prescribed u/s 508(9)	The prescribed income-tax authority u/s 508(1) may levy penalty of ₹ 50,000	
455(2)	Where prescribed reporting financial institution u/s 508, who is required to furnish a statement (herein referred to as the reporting financial institution) provides inaccurate information in the statement and the inaccuracy in such statement is due to false or inaccurate information furnished by the accountholder(s) of the relevant reportable account or accounts	The prescribed income-tax authority u/s 508(1) shall, in addition to the aforesaid penalty, if any, levy a penalty of ₹ 5,000 for every inaccurate reportable account. However, the reporting financial institution shall be entitled to recover the sum so paid from such accountholder(s)	

456	Any eligible investment fund required to furnish a statement or any information or document under paragraph 4 of Schedule I, fails to do so within the time prescribed under the said paragraph	₹ 5,00,000
457	Failure to furnish information or documents as required u/s 171	2% of the value of the international transaction or specified domestic transaction.
458	Failure to furnish information or documents as required u/s 506	2% of the value of the transaction, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; In other case: ₹ 5,00,000
459(1)	Failure by any reporting entity to furnish the report referred to in sec. 511(2) in respect of a reporting accounting year	<ul style="list-style-type: none"> <li>• Failure does not exceed one month: ₹ 5,000 per day</li> <li>• Failure continues beyond the period of one month: ₹ 15,000 per day</li> <li>• Failure continues after an order of penalty has been served on the entity: ₹ 50,000 per day from the date of service of such order</li> </ul>
459(2)	Failure by any reporting entity to produce the information and documents within the period specified u/s 511(7)	<ul style="list-style-type: none"> <li>• ₹ 5,000 per day</li> <li>• Failure continues after an order of penalty has been served on the entity: ₹ 50,000 per day from the date of service of such order</li> </ul>



459(4)	Reporting entity provides inaccurate information in the report referred to in sec. 511(2)	₹ 5,00,000 Penalty shall be levied if: a) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of 15 days of such discovery; or c) the entity furnishes inaccurate information or document in response to the notice issued u/s 511(7),
460	Fails to furnish statement u/s 505 within prescribed date	- Where delay does not exceed 3 months: ₹ 1,000 per day - In other case: ₹ 1,00,000
461 <sup>1</sup>	Failure to furnish TDS / TCS Return or furnishing inaccurate details in these Return	₹ 10,000      ₹ 1,00,000
462	Fails to furnish information, or furnishes inaccurate information as required u/s 397(3)(d)	₹ 1,00,000

<sup>1</sup> No penalty u/s 461 shall be levied if the person proves that after paying TDS / TCS along with the fee and interest, if any, to the credit of the Central Government, he had delivered the statement before the expiry of 1 month from the time prescribed for delivering such statement.

463	Furnishing incorrect information in reports or certificates by an accountant or merchant banker or registered valuer	₹ 10,000 for each report Penalty is leviable by the AO or the Joint Commissioner (Appeals) or Commissioner (Appeals) who in the course of any proceedings finds that such report has incorrect information	
464	Where a. the research association, university, college or other institution referred to in sec. 45, if it fails to deliver or furnish the documents as may be prescribed u/s 45(4)(a);; or b. the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed u/s 354(1)(e), or furnish a certificate prescribed u/s 354(1)(g)	10,000	1,00,000
465(1)(a)	Failure to answer any question (related to assessment) of an income-tax authority	₹ 10,000 for each default	
465(1)(b)	Refuse to sign any statement made by the assessee in course of income tax proceedings		
465(1)(c)	Failure to comply with summons u/s 246(1) to attend office or to give evidence or to produce books of account or other documents, at certain place & time		
465(1)(d)	Fails to comply with a notice u/s 268(1) or 270(8) or fails to comply with a direction issued u/s 268(5) [Penalty shall be levied by such authority]		
465(2)(a)	Failure to comply with a notice issued u/s 175(7)		

465(2)(b)	Failure to give notice of discontinuance of his business or profession as required u/s 320(3)	<p>A sum of ₹ 500, for every day during which the failure continues:</p> <p>However, the amount of penalty for failures in relation to a declaration mentioned in sec. 393(7), a certificate as required by sec. 395(4) and returns or statement u/s 397(3)(b) or (e) shall not exceed the amount of tax deductible or collectible.</p>
465(2)(c)	Failure to furnish in due time any of the returns, statements or particulars mentioned in sec. 252, 397(3) or 507	
465(2)(d)	Failure to allow inspection of any register u/s 255 or of any entry in such register or to allow copies of such register or of any entry therein to be taken	
465(2)(e)	Failure to furnish the return of income which he is required to furnish u/s 263(1)(a)(iii) or (iv) within time allowed and in the manner required.	
465(2)(f)	Failure to deliver or cause to be delivered in due time a copy of the declaration mentioned in sec. 393(7)	
465(2)(g)	Failure to furnish a certificate u/s 395(4)	
465(2)(h)	Failure to deduct and pay tax u/s 416(3)	
465(2)(i)	Failure to furnish a statement u/s 392(5)(a)	
465(2)(j)	Failure to deliver a copy of declaration u/s 394(3) within due time	
465(2)(k)	Failure to deliver a copy of declaration u/s 397(3)(b) within due time	
465(2)(l)	Failure to deliver or cause to be delivered the quarterly return within the time prescribed u/s 397(3)(e)	
465(2)(m)	Failure to deliver a statement within the time prescribed u/s 397(3)(g)(i)	
466	Failure to comply with the provisions of sec. 254	

467	Failure to comply with the provisions of sec. 262	₹ 10,000
468	Failure to comply with the provisions of sec. 397	₹ 10,000

**Penalty for under-reporting and misreporting of income [Sec. 439]**

The

- Assessing Officer; or
  - Joint Commissioner (Appeals) or Commissioner (Appeals); or
  - Principal Commissioner or Commissioner
- (collectively termed as competent authority)

may, during the course of any proceedings under this Act, direct that any person who has under-reported his income shall be liable to pay a penalty in addition to tax, if any, on the under-reported income.

**Taxpoint**

- Penalty proceedings must be initiated before completion of the assessment or appeal order or revision order, as the case may be.
- Penalty order is different from assessment order. Aggrieved with the penalty order passed by the Assessing Officer, the assessee is required to file separate appeal to the Commissioner (Appeals) or separate revision petition u/s 378 or separate rectification petition u/s 287. Further, appeal can be filed with the Tribunal against the penalty order passed by the Commissioner (Appeals) or Principal Commissioner or Commissioner.
- Tribunal cannot impose penalty
- Penalty shall be imposed by the respective income-tax authority on addition made by them. E.g., on addition being made by the Assessing Officer, Commissioner (Appeals) cannot levy penalty. Even the Assessing Officer fails to levy penalty on such addition, Commissioner (Appeals) cannot levy penalty on such addition made by the Assessing Officer. In *CIT -vs.- Shadiram Balmukund*, the Apex court has held that the Assessing officer can levy penalty on the additions made by him and not on the additions made by Commissioner (Appeals). Similarly, Commissioner (Appeals) can levy penalty on the additions made by him and not on the additions made by the Assessing Officer.

**Quantum of penalty [Sec. 439(9) & (10)]**

- **50%** of the amount of tax payable on under-reported income [Sec. 439(9)]

- **200%** of the amount of tax payable on under-reported income, where under-reported income is in consequence of any misreporting thereof by any person - [Sec. 439(10)]

### **Cases of under-reporting of income [Sec. 439(2)]**

A person shall be considered to have under-reported his income, if:

- a. the income assessed is greater than the income determined in the return processed u/s 270(1)(a);
- b. the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time u/s 280;
- c. the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;
- d. the amount of deemed total income assessed or reassessed u/s 206(1) or (2) is greater than the deemed total income determined in the return processed u/s 270(1)(a);
- e. the amount of deemed total income assessed u/s 206(1) or (2) is greater than the maximum amount not chargeable to tax, where no return of income has been filed or where return has been furnished for the first time u/s 280;
- f. the amount of deemed total income reassessed u/s 206(1) or (2) is greater than the deemed total income assessed or reassessed immediately before such reassessment;
- g. the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

### **Computation of amount of under-reported income [Sec. 439(3) & (4)]**

The amount of under-reported income shall be:

- ✿ in a case where income has been assessed for the first time:

☛ If return has been furnished	Assessed Income – Income determined u/s 270(1)(a)
☛ If return has not been furnished or where return has been furnished for the first time u/s 280	<i>In case of company, firm or local authority:</i> Assessed Income <i>Other persons:</i> Assessed Income – Basis Exemption Limit

- ✿ in a case where income has already been assessed earlier:

Income reassessed or recomputed - Income assessed, reassessed or recomputed in a *preceding order*

☛ *Preceding order* means an order immediately preceding the order during the course of which the penalty has been initiated.

- ⊛ in a case where under-reported income arises out of determination of deemed total income in accordance with sec. 206(1) or (2), the amount of total under-reported income shall be determined in accordance with the following formula:

$$(A - B) + (C - D)$$

Where,

A = Total income assessed as per the provisions other than the provisions contained in sec. 206 (herein called general provisions)

B = Total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;

C = Total income assessed u/s 206

D = Total income that would have been chargeable had the total income assessed u/s 206 been reduced by the amount of under-reported income.

However, where the amount of under-reported income on any issue is considered both u/s 206 and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

- ⊛ in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income:

$$\text{The income or loss assessed or reassessed} - \text{Loss claimed}$$

**Meaning of under-reported income in a case where source is linked to earlier year [Sec. 439(6)]**

Where:

- the source of any receipt, deposit or investment in any tax year
- is claimed to be an amount added to income or deducted while computing loss, as the case may be, in the assessment of such person
- in any year prior to the tax year in which such receipt, deposit or investment appears (hereinafter referred to as "preceding year")
- and no penalty was levied for such preceding year,

then, the under-reported income shall include such amount as is sufficient to cover such receipt, deposit or investment.

Taxpoint

- ✿ Such amount shall be deemed to be amount of income under-reported for the preceding year in the following order:
  - a. the preceding year immediately before the year in which the receipt, deposit or investment appears, being the first preceding year; and
  - b. where the amount added or deducted in the first preceding year is not sufficient to cover the receipt, deposit or investment, the year immediately preceding the first preceding year and so on.
- ✿ The assessee can explain that the investment or expenditure is made out of additions made during earlier years – *Anantharam Veerasinghaiah & Co. -vs.- CIT (SC)*

### **Example**

- Addition made by the Assessing Officer on estimated basis in the preceding year(s) ₹ 1,00,000
- Penalty levied on the said addition in the preceding year(s) Nil  
[Due to provision of sec. 439]
- In subsequent tax year, such addition is explained as source of investment made by the assessee, citing the decision of the Apex court in the case of *Anantharam Veerasinghaiah & Co.*
- Despite this confession of concealment on the part of the assessee, no penalty was leviable in such cases as the time limit for initiating concealment penalty proceedings in respect of the earlier year in which addition was made would have expired. Moreover, the penalty could also not be imposed in respect of the year in which the deposit was made as there was no concealment in that year, the deposit having been explained as out of an earlier year's income.
- In this type of case, sec. 439(6) comes into play which states that under-reported income shall include such amount.

### **Cases not considered as under-reported income [Sec. 439(8)]**

The under-reported income shall not include the following:

- a. *Proper Explanation*: The amount of income in respect of which the assessee offers an explanation and the competent authority is satisfied that the explanation is bona fide and the assessee has disclosed all the material facts to substantiate the explanation offered.
- b. *Estimate by the authority*: The amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the competent authority but the method employed is such that the income cannot properly be deduced therefrom;

- c. *Estimate by the assessee*: The amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance.
- d. *Arm's length price*: The amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed u/s 171, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction; and

### **Cases of misreporting of income [Sec. 439(11)]**

The cases of misreporting of income shall be the following:

- a. misrepresentation or suppression of facts;
- b. failure to record investments in the books of account;
- c. claim of expenditure not substantiated by any evidence;
- d. recording of any false entry in the books of account;
- e. failure to record any receipt in books of account having a bearing on total income;
- f. failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply; and
- g. income referred to in sec. 195(1)(b) [i.e., undisclosed income u/s 102 to 106]

### **Computation of tax payable on under-reported income [Sec. 439(12)]**

The tax payable in respect of the under-reported income shall be:

Where no return of income has been furnished or where return has been furnished for the first time u/s 280, and the income has been assessed for the first time	Tax calculated on the under-reported income as increased by the maximum amount not chargeable to tax as if it were the total income
Where the total income determined u/s 270(1)(a) or assessed, reassessed or recomputed in a preceding order is a loss	Tax calculated on the under-reported income as if it were the total income



- ✿ An assessee may make an application to the Assessing Officer to grant waiver from penalty levied u/s 439 and immunity from initiation of proceedings u/s 478 or 479, if he fulfils the following conditions:
  - a. the tax and interest payable as per the order of assessment or reassessment u/s 270(10) or 279, as the case may be, has been paid within the period specified in such notice of demand;
  - b. where penalty has been levied under the circumstances referred to in sec. 439(11)(a) to (f), additional income-tax amounting to 100% of the amount of tax payable on under-reported income has been paid within the period specified in the notice of demand, in lieu of such penalty;
  - c. where penalty has been levied under the circumstances referred to in section 439(11)(g), additional income-tax amounting to 120% of the amount of tax payable on under-reported income has been paid within the period specified in the notice of demand, in lieu of such penalty; and
  - d. no appeal against aforesaid order has been filed.
- ✿ An application shall be made within 1 month from the end of the month in which the said order has been received and shall be made in such form and verified in prescribed manner.
- ✿ The Assessing Officer shall (on fulfilment of the aforesaid conditions) and after the expiry of the period of filing the appeal, grant waiver of penalty u/s 439 and immunity from initiation of proceedings u/s 478 or 479
- ✿ No waiver or immunity shall be granted if any proceeding has been initiated under Chapter XXII (i.e. Offences and Prosecution).
- ✿ The Assessing Officer shall, within a period of 3 months from the end of the month in which the application is received, pass an order accepting or rejecting such application after giving an opportunity of being heard to the assessee.
- ✿ The order made by the assessing officer in this regard is final.
- ✿ Where application is accepted, then appeal to Joint Commissioner (Appeals) or Commissioner (Appeals) or an application for revision u/s 379 shall not be admissible against the order of assessment or reassessment.

The CBDT, vide Circular No. 05/2018 dated 16-08-2018, has clarified that an application made by an assessee u/s 440 seeking immunity, will not bar the assessee from contesting the same issue in any earlier tax year. The circular also clarifies that the tax authority shall not take an adverse view in penalty proceedings for earlier tax years under old penalty regime merely because the taxpayer has applied for immunity under the new penalty regime (i.e., section 440).

## Section Mapping

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Penalty for under-reporting and misreporting of income	270A	439
Waiver of penalty and immunity from prosecution	270AA	440
Failure to keep, maintain or retain books of account, documents, etc.	271A	441
Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions	271AA	442
Penalty for false entry, etc., in books of account	271AAD	444
Benefits to related persons	271AAE	445
Penalty for failure to furnish information or for furnishing inaccurate information on transaction of crypto-asset	—	446
Penalty for failure to deduct tax at source	271C	448
Penalty for failure to collect tax at source	271CA	449
Penalty for failure to comply with provisions of sec. 185	271D	450
Penalty for failure to comply with provisions of sec. 186	271DA	451
Penalty for failure to comply with provisions of sec. 187	271DB	452
Penalty for failure to comply with provisions of sec. 188	271E	453
Penalty for failure to furnish statement of financial transaction or reportable account after a notice	271FA	454
Penalty for furnishing inaccurate statement of financial transaction or reportable account	271FAA	455
Penalty for failure to furnish statement or information or document by an eligible investment fund	271FAB	456
Penalty for failure to furnish information or document u/s 171	271G	457
Penalty for failure to furnish information or document u/s 506	271GA	458
Penalty for failure to furnish report or for furnishing inaccurate report u/s 511	271GB	459
Penalty for failure to submit statement u/s 505	271GC	460
Penalty for failure to furnish statements, etc.	271H	461

Penalty for failure to furnish information or furnishing inaccurate information u/s 397(3)(d)	271-I	462
Penalty for furnishing incorrect information in reports or certificates	271J	463
Penalty for failure to furnish statements, etc.	271K	464
Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.	272A	465
Penalty for failure to comply with provisions of sec. 254	272AA	466
Penalty for failure to comply with provisions of sec. 262 and 397	272B	467
Penalty for failure to comply with provisions of sec. 397	272BB	468



## COMPANY ASSESSMENT

### **Minimum Alternate Tax (MAT) or Tax on Book Profit [Sec. 206] [Old Sec. 115JB]**

At times it may happen that a taxpayer, being a company, may have generated income during the year, but by taking the advantage of various provisions of Income-tax Law (like exemptions, deductions, depreciation, etc.), it may have reduced its tax liability or may not have paid any tax at all. Due to increase in the number of zero tax paying companies, MAT was introduced. The objective of introduction of MAT is to bring into the tax net "zero tax companies" which in spite of having earned substantial book profits and having paid handsome dividends, do not pay any tax due to various tax concessions and incentives provided under the Income-tax Law.

#### **Applicable to**

Any company (whether Indian or Foreign, resident or non-resident, closely held or widely held company)

**Exception:** The provisions of MAT are not applicable in the following cases -

Case	Provisions
<b>Shipping company</b>	Income of a shipping company which is subject to the provisions of "tonnage income" of Chapter XIII-G (i.e., sections 225 to 235)
<b>Life insurance</b>	Income accrues to a company from life insurance business referred to in sec. 194(1) (Table Sl. No. 6)
<b>Foreign company</b>	<ol style="list-style-type: none"> <li><b>1. Residents of DTAA Countries:</b> The taxpayer is a resident of a country or territory with which India has a Double Taxation Avoidance Agreement (DTAA), provided they do not maintain a Permanent Establishment (PE) in India under the terms of that agreement; or</li> <li><b>2. Residents of Non-DTAA Countries:</b> The taxpayer is resident of a country with which India does not have a DTAA, provided they are not legally obligated to register under Indian corporate laws.</li> <li><b>3. Income from Specific Presumptive Businesses:</b> The taxpayer's entire income comes exclusively from specific businesses provided in sec. 61(2) (such as shipping, aircraft, or oil exploration operations), and they have offered income to be taxed at the special rates prescribed for those respective sections</li> </ol>
<b>Domestic company under new tax regime</b>	A domestic company which has opted for the alternative tax regime u/s 200 / 201

**Circumstance in which MAT is applicable:** Where the income-tax, payable on the total income (being computed under this Act in respect of any tax year) is less than 14% of its book profit

**Treatment:**

- Such book profit shall be deemed to be the total income of the assessee; and
- The tax payable by the assessee on such total income shall be the amount of income-tax at the rate of 14% (plus surcharge, Health & Education cess)

**Other Points**

- **Unit in IFSC:** Where the assessee is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the rate of MAT shall be 9%
- **Book Profit should be as per Schedule III to the Companies Act, 2013:** Every company shall prepare its Statement of Profit and Loss for the relevant tax year in accordance with the provisions of Schedule III to the Companies Act, 2013. However, in case of banking, insurance or electricity company, such statement should be prepared as per provisions of the Act which governs such company.
  - While preparing the annual accounts:
    - a) the accounting policies;
    - b) the accounting standards followed for preparing such accounts;
    - c) the method and rates adopted for calculating the depreciation,shall be the same as have been adopted for the purpose of preparing such accounts and laid before the company at its annual general meeting.
- **When assessing officer has power to alter profit:** Where the statement of profit and loss has been prepared in accordance with Schedule III to the Companies Act, 2013 and which has been scrutinised and certified by the statutory auditors and relevant authorities, the Assessing Officer has no power to scrutinise net profit in the statement of profit and loss except to the extent provided in Explanation [*Apollo Tyres Ltd. -vs.- CIT (SC)*]
- **Report from Accountant:** Every company to which this section applies, shall upload a report in the prescribed form [Form 66 – Rule 137] from an accountant, certifying that the book profit has been computed in accordance with the provisions of this section one month prior to the due date of the filing of the return of income u/s 263(1) or along with the return of income furnished in response to a notice u/s 268(1)
- **No impact of MAT on losses:** Nothing shall affect the determination of the amounts in relation to the relevant tax year to be carried forward to the subsequent year or years under the provisions of sec. 33(11) or 111 or 112(1) or 113 or 115.
- **Other provision will apply:** All other provisions of this Act like Advance Tax, interest, etc. shall apply to every company, mentioned in this section.

**Illustration 1**

Business income (before adjusting brought forward losses) & Book Profit of X Ltd. for various years are as follow:

	Year 1	Year 2	Year 3
Business Income as per other provisions of the Act	(-) ₹ 2,00,000	₹ 1,50,000	₹ 1,50,000
Book Profit	₹ 1,00,000	₹ 60,000	₹ 2,50,000

In the aforesaid case, tax shall be computed as under:

Particulars	Year 1	Year 2	Year 3
Business Income after set off	(-) ₹ 2,00,000	Nil	₹ 1,00,000
Tax on above @ 25% [A]	Nil	Nil	₹ 25,000
Book Profit	₹ 1,00,000	₹ 60,000	₹ 2,50,000
14% of Book Profit [B]	₹ 14,000	₹ 8,400	₹ 35,000
<b>Tax [Higher<sup>1</sup> of A &amp; B]</b>	<b>₹ 14,000</b>	<b>₹ 8,400</b>	<b>₹ 35,000</b>
Add: Surcharge*	Nil	Nil	Nil
Tax & Surcharge	₹ 14,000	₹ 8,400	₹ 35,000
Add: Health & Education Cess	₹ 560	₹ 336	₹ 1,400
<b>Tax Liability (R/off)</b>	<b>₹ 14,560</b>	<b>₹ 8,740</b>	<b>₹ 36,400</b>

\*As total income of the company does not exceed ₹ 1 crore, hence surcharge is not applicable.

It is to be noted that when a company is liable to pay tax u/s 206, book profit of the company shall be considered as total income of the company.

**Computation and Meaning of Book Profit [Sec. 206(1)(c)]**

Book profit means the profit as shown in the statement of profit and loss for the relevant tax year:

As **increased** by (if following amount is debited in the Statement of Profit & Loss):

- (a) the amount of income-tax paid or payable, and the provision therefore;
- It includes:
    - Any interest under the Income Tax Act;
    - Surcharge and cess on the income-tax.
  - It does not include:
    - Penalty paid or payable under this Act
    - Any tax, interest or penalty paid or payable under other Act;
    - Securities Transaction Tax;

<sup>1</sup> There is another view. As per that view, comparison shall be made after applying surcharge and cess in respective tax.

- (b) the amounts carried to any reserves, by whatever name called;
- (c) the amount set aside to provisions made for meeting liabilities, other than ascertained liabilities;
  - Any provision made to meet unascertained liabilities like provision for gratuity or future losses, etc. should be added back. However, if the provision for gratuity has been made on the basis of actuarial valuation, it becomes ascertained liability, hence should not be added back [Shree Sajjan Mills Ltd. -vs.- CIT (SC)]
- (d) the amount by way of provision for losses of subsidiary companies;
- (e) the amount or amounts of dividends paid or proposed;
- (f) expenditure relatable to any income to which provisions of sec. 11 apply or any expenditure out of regular income of a registered non-profit organisation referred in sec. 335
- (g) the amount of depreciation
- (h) the amount of deferred tax and provision thereof
- (i) the amount set aside as provision for diminution in the value of any asset (like asset written-off, etc.)
- (j) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset (if not credited to the statement of Profit and Loss)

As **reduced by**:

- a. the amount withdrawn from any reserve or provision if any such amount is credited to the statement of profit and loss.
  - An amount withdrawn from reserve being created before 1-4-1997 otherwise than by way of a debit to the statement of profit and loss shall not be reduced.
  - An amount withdrawn from reserves created or provisions made on or after 1-4-1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) in that year.
- b. income to which any of the provisions of section 11 apply or any regular income of a registered non-profit organisation referred in section 335, if any such amount is credited to the statement of profit and loss;
- c. the amount of depreciation debited to the statement of profit and loss (excluding the depreciation on account of revaluation of assets);
- d. the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred above;
- e. the amount of deferred tax, if any such amount is credited to the statement of profit and loss
- f. the amount of brought forward loss or unabsorbed depreciation, whichever is less as

per books of account.

- the loss shall not include depreciation;
- the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation, is nil;
- Consolidated loss and depreciation for earlier year in totality is required to be considered
- This adjustment is irrespective of other provision of the law.

**Taxpoint**

Following adjustments are also required to be made to derive book profit

Case	Adjustment
Income on which no tax is payable	In case of a company being a member of AOP or BOI having income being share of the assessee in the income of an AOP or BOI, on which no income-tax is payable as per the provisions of sec. 310, then: <ul style="list-style-type: none"> <li>A. Expenditure relatable to such income if debited to the statement of profit and loss, is to be added; and</li> <li>B. Income if credited to the statement of profit and loss, is to be reduced</li> </ul>
Income taxable at lower rate	In case of a foreign company having income accruing or arising from: <ul style="list-style-type: none"> <li>A. Capital gains arising on transactions in securities; or</li> <li>B. Interest, dividend, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XIII,</li> </ul> and the income-tax payable thereon as per the regular provisions, is at a rate less than the MAT rate, then: <ul style="list-style-type: none"> <li>a. Expenditure relatable to such income if debited to the statement of profit and loss, is to be added; and</li> <li>b. Income if credited to the statement of profit and loss, is to be reduced;</li> </ul>
Business Trust	<u><i>In case of a company, which has transferred any capital asset, being share of a special purpose vehicle to a business trust:</i></u> <ol style="list-style-type: none"> <li>1. the following amounts, if debited to the statement of profit and loss, are to be added:                             <ul style="list-style-type: none"> <li>a. Notional loss on transfer of such capital asset, to a business trust in exchange of units allotted by the trust referred to in sec. 70(1)(zi); or</li> <li>b. Notional loss resulting from any change in carrying amount of the said units; or</li> <li>c. Loss on transfer of units referred to in sec. 70(1)(zi);</li> </ul> </li> <li>2. the following amounts, if credited to the statement of profit and loss, are to be reduced:—                             <ul style="list-style-type: none"> <li>a. Notional gain on transfer of such capital asset, to a business trust</li> </ul> </li> </ol>

	<p>in exchange of units allotted by the trust referred to in sec. 70(1)(zi); or</p> <p>b. the amount representing the notional gain resulting from any change in carrying amount of the said units; or</p> <p>c. Gain on transfer of units referred to in sec. 70(1)(zi);</p> <p><i><u>In case of a company that has transferred units referred to in sec. 70(1)(zi) and, where the gain or loss on such transfer has been computed by taking into account:</u></i></p> <p>a. the cost of the shares exchanged with units referred to in sec. 70(1)(zi); or</p> <p>b. the carrying amount of the shares at the time of exchange, if such shares are carried at a value other than the cost through statement of profit and loss,</p> <p>then, the gain on transfer of such units is to be added, and the loss on transfer of such units is to be reduced.</p>
Royalty	<p>In case of a company whose total income includes income by way of royalty in respect of a patent which is chargeable to tax u/s 194(1):</p> <p>a. Expenditure relatable to such royalty income, if any such amount is debited to the statement of profit and loss, is to be added; and</p> <p>b. Income by way of such royalty, is to be reduced</p>
Insolvency	<p>A. In case of a company, where the Tribunal, on an application moved by the Central Government u/s 241 of the Companies Act, 2013 has after suspension of the Board of Directors of such company has nominated new directors u/s 242 of the said Act,</p> <p>The aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward of such company and its subsidiary and the subsidiary of such subsidiary, is to be reduced</p> <p>B. In case of a company against whom corporate insolvency resolution process has been admitted by the Adjudicating Authority u/s 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016,</p> <p>The aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward, is to be reduced</p>
Sick industrial unit	<p>In case of a company being a sick industrial company u/s 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood immediately before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003,</p> <p>Profits for the period commencing from the tax year in which such</p>

	company has become a sick industrial company and ending with the tax year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses, is to be reduced		
Demerger	In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from the values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company		
Advance Pricing Agreement or secondary adjustment	In case of a company, where there is an increase in book profit of the tax year due to income of past year (or years) included in the book profit on account of an advance pricing agreement entered into by the assessee u/s 168 or on account of secondary adjustment required to be made u/s 170, the Assessing Officer shall, on an application made to him in this behalf by the assessee, recompute the book profit of the past year (or years) and tax payable, if any, by the assessee during the tax year. In this situation, the provisions of sec. 287 shall apply and the period of 4 years shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer. This provision shall apply only if the assessee has not utilised the credit of tax paid u/s 115JAA of the old Act in any subsequent tax year ending on or before 31-03-2026.		
Indian Accounting Standard	In case of a company, whose financial statements are drawn up in compliance with the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015 made under the Companies Act, 2013, following adjustments are required to be made		
	<b>SN</b>	<b>Amounts (to be added) [A]</b>	<b>Amounts (to be reduced) [B]</b>
	1	Amounts credited to the statement of profit and loss as referred in clause (e)(i).	Amounts debited to the statement of profit and loss as referred in clause (e)(i).
	2	The amounts or aggregate of the amounts debited to the statement of profit and loss on distribution as referred in clause (e)(ii).	The amounts or aggregate of the amounts credited to the statement of profit and loss on distribution as referred in clause (e)(ii).
	3	Amount being one-fifth of the transition amount in the year of convergence and each of the following four tax years.	Amount being one-fifth of the transition amount in the year of convergence and each of the following four tax years.

4	The amount or the aggregate of the amounts referred to in clause (e)(iii), if such amount is not decreased.	The amount or the aggregate of the amounts referred to in clause (e)(iii), if such amount is not increased.
5	The amount or the aggregate of the amounts referred to in clause (e)(iv), if such amount is not decreased.	The amount or the aggregate of the amounts referred to in clause (e)(iv), if such amount is not increased.

For the purpose of this table:

- i. the amount referred to in columns A and B of serial number 1 shall be the other comprehensive income in the statement of profit and loss under the head “Items that will not be re-classified to profit or loss”, excluding—
  - A. revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38; or
  - B. gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109, and the aggregate of the amounts referred to in sub-clause (i)(A) and (B) for the tax year or any of the preceding tax years, and relating to such investment or asset, in the tax year in which the said investment or asset is retired, disposed, realised or otherwise transferred;
- ii. the distribution referred to in columns A and B of serial number 2 shall be the distribution of non-cash assets to shareholders in a demerger as per Appendix A of the Indian Accounting Standards 10;
- iii. the amount referred to in columns A and B of serial number 4 shall be the amount which is relating to the asset or investment referred to in clause (t)(vi)(B) to (E) for the tax year in which such asset or investment is retired, disposed, realised or otherwise transferred;
- iv. the amount referred to in columns A and B of serial number 5 shall be the transition amount which is relating to the foreign operations referred to in clause (t)(vi)(F) for the tax year in which such foreign operation is disposed or otherwise transferred.

**Taxpoint**

As per (t)(vi), “transition amount” means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date, but not including

	<p>the following:</p> <p>A. amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;</p> <p>B. revaluation surplus for assets as per the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;</p> <p>C. gains or losses from investments in equity instruments designated at fair value through other comprehensive income as per the Indian Accounting Standards 109 adjusted on the convergence date;</p> <p>D. adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost as per paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;</p> <p>E. adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost as per paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and</p> <p>F. adjustments relating to cumulative translation differences of a foreign operation as per paragraph D13 of the Indian Accounting Standards 101 on the convergence date;</p>
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**MAT Credit**

From Tax Year 2026-27, tax paid under MAT is considered as a final tax. In other words, no credit is available.

*Rule for unutilized MAT credit which is availed under the Income tax Act 1961*

<b>For Domestic Companies [Sec. 206(3)]</b>	
Available to	Domestic companies that have exercised the option u/s 200(5) or sec. 201(2) for a tax year starting on or after 01-04-2026
Usage Limit	<p>If the company has old MAT credits that were carried forward under sec. 115JAA of the 1961 Act as of 31-03-2026, the following rules apply:</p> <ul style="list-style-type: none"> <li>- <b>Usage Limit:</b> The company can use these old credits to lower their current tax bill, but they can only offset up to a maximum of <b>25% of the regular tax payable</b> for that tax year.</li> <li>- <b>Carry Forward:</b> Balance credit can be carried forward to the next year.</li> <li>- <b>Expiration Date:</b> The credit completely expires 15 years after the original year it first became allowable under the old 1961 Act.</li> </ul>

<b>For Foreign Companies [Sec. 206(4)]</b>	
Available to	Foreign Company
Usage	<p>If the foreign company had tax credits carried forward u/s 115JAA of the old 1961 Act as of 31-03-2026, following rule apply:</p> <ul style="list-style-type: none"><li>- <b>When to Use:</b> The company can only use the credit in a tax year where their regular tax liability is higher than their computed Minimum Alternate Tax (MAT).</li><li>- <b>Usage Limit:</b> The maximum amount of credit they can use in the tax year is capped at the difference between their regular tax liability and the MAT for that tax year.</li><li>- <b>Carry Forward:</b> Balance credit can be carried forward to the next year.</li><li>- <b>Expiration Date:</b> The credit completely expires 15 years after the original year it first became allowable under the old 1961 Act.</li></ul>

**Taxpoint**

- Where, as a result of any order passed under this Act, tax payable under this Act is decreased or increased, as the case may be, tax credit allowed to be set off shall also be decreased or increased, accordingly.
- In case of conversion of a private company or unlisted public company into a LLP, the unutilized MAT credit shall not be available to the successor LLP

## REGISTERED NON-PROFIT ORGANISATION

Income of a registered non-profit organisation or institution is regulated under the comprehensive statutory code of this Part. Under the modern framework, traditional legacy exclusions under the Income Tax Act, 1961 are fully replaced by an objective, component-based tax system designed to balance strict compliance verification with structural transparency.

### Meaning of Certain Terms [Sec. 355 & 2(23)]

- As per sec. 2(23), charitable purpose includes:
    - a. relief of the poor;
    - b. education;
    - c. yoga;
    - d. medical relief;
    - e. preservation of environment (including watersheds, forests and wildlife);
    - f. preservation of monuments or places or objects of artistic or historic interest;
    - g. the advancement of any other object of general public utility;
- Taxpoint**
- If the object is not intended to give relief to the poor or for the advancement of medical or educational field, it may be treated as charitable purpose if it causes the advancement of *object of general public utility*. As per *Bar council of Maharashtra - vs. - CIT* meaning of –

General	: Pertaining to a whole class
Public	: The body of people at large
Utility	: Usefulness
  - The expression “object of general public utility” is not restricted to ‘the object beneficial to whole of mankind’. An object beneficial to a particular section shall also be deemed as “object of general public utility”. However, it must not be beneficial, only to a particular caste or religious community.
- **Registered Non-Profit Organisation** — Means any person having a valid registration under any specified provision (including legacy sections 12A, 12AA, or 12AB) and such registration has not been cancelled.
  - **Anonymous Donation** — Means any voluntary contribution where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.
  - **Donation** — Means any voluntary contribution received by a registered non-profit organisation from any person.

- **Commercial Activity** — Means any activity in the nature of trade, commerce, or business, or any activity of rendering any service in relation to any trade, commerce, or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity.
- **Wholly for Charitable or Religious Purposes** — Shall mean wholly for charitable purposes or wholly for religious purposes or wholly for combined charitable and religious purposes.
- **Related Person** — Means: (i) the author or founder of the NPO; (ii) any person whose total contribution during the tax year exceeds ₹ 1,00,000, or in aggregate up to the end of the relevant tax year exceeds ₹ 10 lakh; (iii) a member of an HUF where such author, founder, or contributor is an HUF; (iv) any trustee or manager; (v) any relative of such author, founder, member, trustee, or manager; and (vi) any concern in which any of the above persons has a substantial interest.
- **Relative** — In relation to an individual, means: spouse; brother or sister; brother or sister of the spouse; any lineal ascendant (maternal or paternal) or descendant of the individual or the spouse; spouse of any such ascendant/descendant; and any lineal descendant of a brother or sister of either the individual or the spouse.
- **Substantial Interest** — In a case where the concern is a company, if its shares carrying not less than 20% of the voting power are owned beneficially at any time during the tax year by such person or partly by such person and partly by one or more of the other related persons; in the case of any other concern, if entitled to not less than 20% of the profits.
- **Specified Asset** — Means any asset which is established to have been directly acquired by the specified person:
  - a. out of its income of the nature referred to in Schedule II (Table: Sl. No. 1);
  - b. during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective, if the specified person has not been allowed any benefit under this Part or u/s 11 and 12 or sec. 10(23C)(iv) or (v) or (vi) or (via) of the Income-tax Act, 1961 during the said period, where provisions of the first proviso or the second proviso to sec. 12A(2) or the eighth proviso to sec. 10(23C) of the said Act, are not applicable;
  - c. during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective due to the provisions of the first proviso or the second proviso to sec. 12A(2) or the eighth proviso to sec. 10(23C), where provisions of the first proviso or the second proviso to sec. 12A(2) or the eighth proviso to sec. 10(23C), of the Income-tax Act, 1961, are applicable; and
  - d. which has been transferred to any other specified person within 12 months from the end of the month in which the dissolution takes place in respect of a case specified in sec. 352(4) (Table: Sl. No. 9).
- **Specified person** - means any person which is registered under any specified provision at any time since its incorporation or creation;

- **Residual Income** — Means the total income without giving effect to the provisions of this Part, as reduced by regular income and specified income.
- **Value** - means the value of any benefit or facility granted or provided free of cost or at concessional rate to any related person

### Registration [Sec. 332]

Following person may, for claiming benefits of this Part, make an application for registration:

- A public trust
- registered society,
- Section 8 company or
- established university or
- an institution financed wholly or in part by the Government or
- a local authority or
- any person as referred to in Schedule III (Table: Sl. No. 27) to (Table: Sl. No. 29) and (Table: Sl. No. 36) and in Schedule VII (Table: Sl. Nos. 17 to 19) and (Table: Sl. No. 42); or
- any other notified person

Such person shall be eligible for registration, if:

- such person is constituted or registered or incorporated in India for carrying out one or more charitable purposes, as referred to in sec. 2(23) or one or more public religious purposes; and
- the properties of such person are held for the benefit of the general public under an irrevocable trust:
  - wholly for charitable or religious purposes in India; or
  - partly for charitable or religious purposes in India, if such person was constituted or registered or incorporated prior to the commencement of the Income-tax Act, 1961

### Registration Timelines & Validity Matrix [Sec. 332(3)]

Case & Structural Circumstance	Time Limit for Furnishing Application	Time Limit for Passing Order	Validity of Registration
<b>Sl. No. 1: Activities have not commenced and no prior registration exists.</b>	At any time during the tax year beginning from which registration is sought.	1 month from the end of the month in which application is made.	3 tax years commencing from the tax year of application.
<b>Sl. No. 2: Activities</b>	At any time during	6 months from	5 tax years

<b>have commenced and no prior registration exists.</b>	the tax year, beginning from which registration is sought.	the end of the quarter in which application is made.	commencing from the tax year of application.
<b>Sl. No. 3: Provisional registration granted and activities have commenced.</b>	Within 6 months of the commencement of activities.	6 months from the end of the quarter in which application is made.	5 tax years commencing from the tax year of application.
<b>Sl. No. 4: Provisional registration due to expire and activities have not commenced.</b>	At least 6 months prior to the expiry of the provisional registration.	6 months from the end of the quarter in which application is made.	5 tax years following the tax year in which application is made.
<b>Sl. No. 5: Registration due to expire, other than cases mentioned at serial number 4.</b>	At least 6 months prior to the expiry of the registration.	6 months from the end of the quarter in which application is made.	5 tax years following the tax year in which application is made.
<b>Sl. No. 6: Registration become inoperative due to switching over of regime under section 333.</b>	At any time during the tax year beginning from which registration is sought to be made operative.	6 months from the end of the quarter in which application is made.	5 tax years commencing from the tax year of application.
<b>Sl. No. 7: Registered NPO has adopted or undertaken modification of its objects which do not conform to conditions.</b>	Within 30 days of the date of such adoption or modification.	6 months from the end of the quarter in which application is made.	5 tax years commencing from commencement of the tax year of application.

### **Taxpoint**

- **Condonation of Delay:** The Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and the application shall be deemed to have been made within time.
- **Small NPO Ten-Year Extension:** In case the application is made as per serial numbers 3 to 7, and the total income of the NPO without giving effect to this Part does

- not exceed ₹ 5 crore during each of the two preceding tax years, the registration validity is extended from 5 years to 10 years.
- **Failure to Register as a Trigger for Exit Tax:** If an NPO fails to make an application within the periods specified under serial numbers 3, 4, 5, or 7, and the delay is not condoned, the person shall be strictly liable to pay additional income-tax on accreted income u/s 352.
  - **Verification & Approval:** The Commissioner verifies the genuineness of activities and legal compliance. If satisfied, registration is granted; if not, the application is rejected (and existing registration cancelled in specific cases) after providing an opportunity to be heard.
  - **Provisional Registration:** Provisional registration is automatically granted for new applicants whose activities have not yet commenced (Case 1).
  - **Expired Pre-2021 Registrations:** Delays in renewing pre-April 2021 registrations can be condoned for reasonable cause. Registration must be granted within 3 months of application and is valid for 5 years from the tax year 2021-2022.
  - **Order:** The order shall be passed in the form and manner, as may be prescribed

### Switching Over of Regimes [Sec. 333]

- **Exclusivity of the Regime:** Nothing contained in Section 11 shall exclude any income of a registered NPO from its total income, except for explicitly specified entries in Schedule II, Schedule III, and Schedule VII.
- **Cessation of Registration:** A registration granted u/s 332 will automatically cease to operate from the date the NPO is notified under specific entries of Schedule III or VII, or from April 1st of the tax year in which it claims exemption under specific Schedule VII entries.
- **Re-application and Dual-Benefit Bar:** An entity whose registration has ceased may re-apply for registration u/s 332. However, upon the grant of this new registration, any prior notification granting them exemption under Schedule III or VII will cease to have effect, ensuring the NPO cannot claim simultaneous dual benefits.

### Tax on Income [Sec. 334]

The total income-tax liability of a registered non-profit organisation is determined by isolating the regular income from specified income buckets.

Income	Applicable Tax Rate	Statutory Provision
<b>Specified Income</b>	Flat 30% Rate	Sec. 334(1)(a) read with Sec. 337
<b>Taxable Regular Income</b>	Regular rates / Slab rates	Sec. 334(1)(b) read with Sec. 336
<b>Residual Income</b>	Regular rates under other provisions	Sec. 334(1)(b)

## Taxable Regular Income [Sec. 335 & 336]

Computation of taxable regular income

Particulars	₹	₹
<b>Regular Income [Section 335]</b>		
Income from charitable or religious activities		xxx
Income from property held under trust, deposits and investments		xxx
Voluntary contributions (other than corpus donations)		xxx
Permissible business/commercial income [Sections 344–346]		xxx
<b>Regular Income (A)</b>		<b>ABC</b>
Less: 15% accumulation [Section 343]	xxx	
Less: Income applied for charitable/religious purposes [Sec. 341]	xxx	
Less: Specific-purpose accumulation (Max. 5 years) [Sec. 342]	xxx	xxx
<b>Taxable Regular Income [Sec. 336]</b>		<b>XYZ</b>
Case I: If total application & accumulation $\geq$ 85% of (A) = Nil		
Case II: In any other case = 85% of (A) - [Actual Application + Accumulation]		

### Taxpoint

- **Corpus donation** means any donation made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation provided that such donation is invested or deposited in any of the modes permitted u/s 350 maintained specifically for such corpus – Sec. 339. The corpus donation received by the registered non-profit organisation shall not be considered as regular income.
- **Deemed corpus donation [Sec. 340]:** Where the property of a registered non-profit organisation includes any temple, mosque, gurudwara, church or other place notified u/s 133(1)(b)(vi), any sum or sums received by such registered non-profit organisation as donation for the purpose of renovation or repair of such temple, mosque, gurudwara, church or other place, may, at its option, be deemed as forming part of the corpus u/s 339, if it—
  - a. maintains such corpus as separately identifiable;
  - b. applies such corpus only for the purpose for which the donation was made;
  - c. invests or deposits such corpus in any of the modes permitted u/s 350; and
  - d. does not apply such corpus for making donation to any person.
- **Not included in Regular Income:** While computing the Regular Income, income applied outside India shall not be included in regular income if the Board, through a general or special order, permits such exclusion in the following cases:

NPO created	Condition
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<b>before 01-04-1952</b>	Established for charitable or religious purposes and permitted by the Board.
<b>on or after 01-04-1952</b>	Established for charitable purposes, and the application of income outside India promotes international welfare in which India has an interest, subject to Board approval.

- **Net Sourced Slabs:** Sourcing rules u/s 341(4) provides that any application funded out of the corpus, loans, or existing accumulated balances cannot be subtracted from regular income calculation table. They are only allowed when paid back into the corpus or when the loan is repaid.
- **The 85% Rule:** If the shortfall is due to non-receipt of income or any other reason, the trust can opt for a **Deemed Application** u/s 341(5) by exercising an option on or before the return due date to avoid immediate taxation in this table.

### Specified Income [Sec. 337]

Followings table provides the meaning of specified income of a registered non-profit organisation and the year in which it will be taxable

S. N.	Nature of Specified Income / Statutory Violation	Tax Year of Taxability
1	Anonymous donations received by a registered NPO other than an organisation i. wholly for religious purposes; or ii. wholly for charitable and religious purposes (excluding anonymous donations made with a specific direction that such donation is for any university, educational institution, hospital or medical institution run by it) excluding the anonymous donations up to ₹ 1,00,000 or 5% of total donations received during the tax year, whichever is higher.	Tax year in which such anonymous donation is received.
2	Income applied, directly or indirectly, for the benefit of any related person, computed in the prescribed manner.	Tax year in which such application is made.
3	Income applied outside India in contravention of sec. 338(a).	Tax year in which such application is made.
4	Investment or deposit made in contravention of sec. 350 out of income, accumulated income, deemed accumulated income, corpus, deemed corpus or any other fund.	Tax year in which such investment or deposit is made.
5	Deemed corpus donation in respect of which any condition specified in the sec. 340 is violated.	Tax year in which such violation occurs.

6	Accumulated income applied to purposes other than the charitable or religious purposes for which it was accumulated or set apart.	Tax year in which it is so applied.
7	Accumulated income which ceases to remain accumulated or set apart for the purposes specified u/s 342(1).	Tax year in which it ceases to be so accumulated or set apart.
8	Accumulated income not applied in accordance with sec. 341(1) to (4) within the period for which it was accumulated or set apart u/s 342(1).	Last of the tax years for which such income was accumulated or set apart.
9	Accumulated income credited or paid to any other registered NPO.	Tax year in which it is so credited or paid.
10	Income applied to purposes other than the charitable or religious purposes for which the NPO is registered.	Tax year in which it is so applied.
11	Income determined by the Assessing Officer u/s 344 in excess of the income shown in the books of account of the business undertaking.	Tax year to which such income relates.
12	Fair market value of any asset not held in the forms or modes specified in Paragraph 1(1) to (30) of Schedule XVI even after expiry of 1 year from the end of the tax year in which such asset is acquired.	Tax year immediately following the expiry of such one-year period.
13	Deemed application u/s 341(5) not actually applied in India for the objects of the NPO within the period specified in sec. 341(6).	Tax year specified in sec. 341(6) by which such application is required to be made.

## Application of Income [Sec. 341]

### Allowed Applications

- **Direct Application:** Any sum applied for charitable or religious purposes in India during the tax year, provided it complies with specific business expenditure disallowances (Sec. 35(b)(i) and 36(4) to (7)).
- **Inter-Trust Donations:** 85% of a donation made to another registered NPO is allowed as an application of income.

### Reversals from Corpus and Loans

- **Corpus Replenishment:** If an NPO previously applied funds from its corpus, depositing that amount back into permitted modes (u/s 350) is treated as a valid application in the year of deposit. This is allowed if the replenishment occurs within 5

years from the end of the tax year of the original application, provided the original application happened after 31-03-2021, and did not violate any provisions.

- **Loan Repayment:** Similarly, repayment of a loan or borrowing is treated as an application of income, subject to the same 5-year timeline and post-March 2021 conditions.

### **Strict Disallowances (What is NOT an Application)**

- **Depreciation:** No deduction for depreciation is allowed on an asset if its acquisition cost was already claimed as an application of income in any tax year.
- **Carry Forward:** An NPO cannot claim a set-off or deduction for excess application from preceding tax years.
- **Corpus Donations to Others:** Any sum paid as a corpus donation to another registered NPO is disallowed as an application of income.
- **Sourcing Restrictions:** Funds spent out of the corpus, loans, borrowings, accumulated income, deemed accumulated income, or specified income cannot be considered as an application of regular income.

### **Deemed Application Options**

- If an NPO fails to apply 85% of its regular income, it has the option to treat the shortfall as a "deemed application".
- This option must be exercised by submitting a prescribed form to the Assessing Officer (AO) on or before the due date for filing the return of income.
- *Timelines for Actual Spending:*
  - a. If the shortfall occurred because the income was not yet received, the NPO must apply it in the tax year the income is received or the immediately succeeding tax year.
  - b. If the shortfall is for any other reason, it must be applied in the immediately succeeding tax year.

### **Capital Gains Reinvestment**

- **Wholly Charitable Assets:** If a capital asset held wholly for charitable/religious purposes is sold, the entire capital gain is deemed applied if the full net consideration is used to buy a new asset. If only a part is used, the deemed application equals the Amount Utilised minus the Cost of the Transferred Asset.
- **Partially Charitable Assets:** If the asset was held only partially for charitable purposes, the exemption is limited to the "appropriate fraction" of the capital gains, calculated proportionately based on the reinvestment of the net consideration.

## **Accumulated Income [Sec. 342]**

- **The 5-Year Block:** An NPO may accumulate or set apart its regular income for a specific purpose for a maximum period of 5 years.
- **Procedural Requirement:** To claim this, the NPO must furnish a statement to the AO on or before the return filing due date, explicitly stating the purpose and the accumulation period.
- **Investment Mandate:** All accumulated funds must be deposited or invested in the permitted modes specified u/s 350.
- **Donation Restriction:** Any amount paid or credited to another registered NPO out of these accumulated funds will not be treated as a valid application of income.
- **Court Injunctions:** If the funds cannot be applied due to a court order or injunction, that delayed period is excluded when calculating the 5-year limit.
- **Change of Purpose:** If the NPO needs to change the purpose of the accumulation, it can apply to the AO. The AO may allow the funds to be used for other charitable/religious objects in India that conform to the NPO's core objects.
- **Dissolution Exception:** If the NPO is dissolved, the AO may permit the accumulated income to be transferred to another registered NPO in the year of dissolution.

### Deemed Accumulated Income [Sec. 343]

- **The 15% Free Allowance:** Regular income, once reduced by actual applications (Sec. 341) and specific conditional accumulations (Sec. 342), is treated as "deemed accumulated income" up to a maximum limit of 15% of the regular income.
- **Investment Requirement:** Like all trust funds, this 15% deemed accumulated income must be invested or deposited in the permitted modes u/s 350.
- **Exclusion from 5-Year Rules:** This 15% allowance is entirely independent of sec. 342; it does not require a specific purpose statement, nor is it bound by the strict 5-year utilization window.

#### Summary of provision of sec. 341 to 343

Parameter / Feature	Section 341 – Application of Income	Section 342 – Accumulation for Specific Purpose	Section 343 – Statutory Accumulation (15%)
<b>Objective</b>	Application of income towards charitable or religious purposes in India.	Accumulation of income for a specified charitable or religious purpose to be utilized in future.	Automatic accumulation of a portion of income without any specific purpose requirement.
<b>Nature</b>	Actual spending /	Earmarking of income	Statutory

	application of income.	for future application.	accumulation permitted by law.
<b>Maximum Period</b>	During the tax year; extension possible under deemed application provisions.	Maximum 5 tax years (excluding period covered by court injunction, if any).	No utilization period prescribed.
<b>Threshold</b>	Application, together with permissible accumulation, should generally cover 85% of gross regular income.	Forms part of the 85% compliance framework.	Restricted to 15% of gross regular income.
<b>Purpose Requirement</b>	Must be applied for registered charitable or religious objects.	Specific purpose must be identified and declared.	No specific purpose required.
<b>Form / Statement</b>	Prescribed form required only for deemed application option.	Prescribed statement specifying purpose and period to be filed on or before the return due date.	No form or declaration required.
<b>Investment Requirement</b>	Not applicable to direct expenditure.	Accumulated amount must be invested/deposited in modes specified u/s 350 / Schedule XVI.	Amount retained should be held in permitted modes u/s 350.
<b>Inter-NPO Donations</b>	Non-corpus donations qualify as application only to the extent of 85% of the amount donated. Corpus donations are not treated as application.	Accumulated income cannot be credited or paid to another registered NPO.	Subject to normal application rules when subsequently utilized.
<b>Corpus and Loan Adjustments</b>	Replenishment of corpus and repayment of eligible loans within prescribed conditions are treated as application.	Not applicable.	Not applicable.
<b>Depreciation Restriction</b>	Depreciation not allowable where	Not applicable.	Not applicable.

	acquisition cost of the asset has already been claimed as application.		
<b>Capital Gains Treatment</b>	Reinvestment of net consideration in eligible assets qualifies for exemption subject to conditions.	Not applicable.	Not applicable.
<b>Consequences of Non-compliance</b>	Shortfall in required application may become taxable as Regular Income u/s 336.	Misapplication, transfer to another NPO, or non-utilization within the prescribed period becomes Specified Income taxable u/s 337.	Breach of investment mode requirements may trigger taxation u/s 337.
<b>Tax Consequence</b>	Taxable as Regular Income to the extent of application shortfall.	Taxable as Specified Income at 30% upon violation.	Taxable as Specified Income at 30% upon violation.
<b>Relevant Sections</b>	Section 341	Section 342	Section 343

## **Commercial Activities and Strict Restrictions [Sec. 344 to 346]**

### **Business Undertaking Held as Property [Section 344]**

Where the property held by a registered NPO includes a business undertaking, the Assessing Officer is empowered to determine and compute the income of such undertaking in accordance with the normal provisions of the Act. If the income so determined exceeds the income disclosed in the books of account of the NPO, the excess amount shall be treated as Specified Income u/s 337 and taxed at the special rate of 30%.

### **General Restrictions on Commercial Activities [Section 345]**

A registered NPO, other than one covered u/s 346, may carry on commercial or business activities only if both of the following conditions are satisfied:

1. The commercial activity is incidental to the attainment of its charitable or religious objects; and
2. Separate books of account are maintained in respect of such commercial activity.

### **Restrictions Applicable to General Public Utility (GPU) Organisations [Section 346]**

A registered NPO engaged in the advancement of any other object of general public utility (GPU) is subject to certain conditions. Such an organisation may undertake commercial activities only if all of the following requirements are fulfilled:

1. The commercial activity is undertaken in the course of the actual carrying out of the GPU object;
2. The aggregate receipts from such commercial activities during the tax year do not exceed 20% of the total receipts of the NPO for that year; and
3. Separate books of account are maintained for such commercial activities.

Accordingly, GPU organisations are subject not only to the requirement of maintaining separate books of account but also to a quantitative restriction whereby commercial receipts cannot exceed 20% of total receipts during the relevant tax year.

### **Compliances [Sec. 347 to 350]**

When total income without giving effect to this Part exceeds the maximum amount not chargeable to tax, the NPO must satisfy four core compliances:

1. Maintain Books of Account u/s 347 in the prescribed form, manner, and place.
2. Undergo a Statutory Audit u/s 348 by an accountant and furnish a signed, verified report by the prescribed due date.
3. Furnish a Return of Income u/s 349 within the mandatory timelines of sec. 263.
4. Deploy funds solely in Permitted Investment Modes u/s 350 as listed in Schedule XVI.

### **Specified Violations [Sec. 351]**

A registered NPO shall be regarded as having committed a specified violation in any of the following circumstances:

1. Where any part of its income is applied for purposes other than the charitable or religious objects for which it is registered.
2. Where it carries on commercial or business activities in contravention of sec. 345, namely where such activities are not incidental to the attainment of its objects or where separate books of account are not maintained.
3. Where any portion of its income is applied for private religious purposes which do not enure for the benefit of the general public.
4. Where a charitable NPO established after the commencement of the Act applies any part of its income for the benefit of a particular religious community or caste. However, expenditure incurred for the benefit of Scheduled Castes, Scheduled Tribes, socially and educationally backward classes, women or children shall not constitute a violation.
5. Where the activities of the NPO are found to be non-genuine or are not being carried out in accordance with the conditions subject to which registration was granted.



6. Where the NPO fails to comply with any other law that is material for achieving its objects and the order, direction or decree recording such non-compliance has either attained finality or has not been disputed.
7. Where the application for registration or any subsequent application contains false, incorrect or misleading information.

### **Circumstances Requiring Inquiry by the Commissioner**

The Principal Commissioner or Commissioner may initiate proceedings u/s 351 in any of the following situations:

1. Upon noticing a specified violation during any tax year.
2. On receipt of a reference from the Assessing Officer u/s 270(13).
3. Where the NPO is selected for verification in accordance with the risk management strategy prescribed by the Board.

### **Inquiry and Adjudication Procedure**

Upon initiation of proceedings, the Principal Commissioner or Commissioner may call for documents, information or explanations from the NPO and may also conduct such inquiries as considered necessary.

Before passing any adverse order, the NPO must be granted a reasonable opportunity of being heard in accordance with the principles of natural justice.

After examining the facts and evidence, the Commissioner may:

- Pass an order cancelling the registration if satisfied that a specified violation has occurred; or
- Pass an order refusing to cancel the registration if no violation is established.

The order is required to be communicated to both the registered NPO and the Assessing Officer.

### **Effect of Cancellation**

Where registration is cancelled, such cancellation shall apply for the relevant tax year in which the violation is established and for all subsequent tax years unless fresh registration is obtained in accordance with the provisions of the Act.

### **Time Limit for Passing Order**

The Principal Commissioner or Commissioner is required to pass the order within 6 months from the end of the quarter in which the first notice seeking information, documents or explanation is issued.

## **Exit Plan: Tax on Accreted Income [Sec. 352]**

Section 352 serves as an absolute check against capital misdirection upon an NPO's structural dissolution, conversion, or registration cancellation. Such additional tax is levied at the Maximum Marginal Rate (MMR).

$$A = B - C$$

Where: A = Accreted income; B = Aggregate fair market value of total assets on the specified date; C = Total liability as on the specified date.

Case & Structural Trigger	Specified Valuation Date	Due Date for Payment of Exit Tax
Sl. No. 1: Registration cancelled or withdrawn; appeal preferred.	The date of the order cancelling registration.	Date of receipt of the order in any appeal, confirming cancellation.
Sl. No. 2: Registration cancelled or withdrawn; no appeal preferred.	The date of the order cancelling registration.	The date on which the period for filing appeal u/s 362 expires.
Sl. No. 3: Modified objects do not conform to registration, and no fresh registration application made.	The date of adoption or modification of any object.	The end of such tax year.
Sl. No. 4: Modified objects do not conform, fresh application made and rejected, appeal preferred.	The date of adoption or modification of any object.	Date of receipt of the order in any appeal confirming the rejection.
Sl. No. 5: Modified objects do not conform, fresh application made and rejected, no appeal preferred.	The date of adoption or modification of any object.	The date on which the period for filing appeal u/s 362 expires.
Sl. No. 6: NPO fails to make a timely registration application u/s 332(3).	The last date for making an application for registration.	The end of such tax year.
Sl. No. 7: NPO converts itself into a form which is not eligible for grant of registration.	The date of such conversion.	The end of such tax year.
Sl. No. 8: NPO merged with a non-NPO, or an NPO with non-similar objects, or failed conditions.	The date of merger.	The date of merger.

Sl. No. 9: NPO failed to transfer upon dissolution all its assets to another NPO within 12 months.	The date of dissolution.	The date on which the 12-month window from the end of the month of dissolution expires.
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### **Taxpoint**

- **Finality of Accreted Tax:** Payment of tax on accreted income u/s 352(5) is deemed as the final payment of tax in respect of said income. No further credit or deduction shall be claimed by the specified person or any other person in respect of the amount so paid.
- **Safe Harbor for Similar Mergers:** Under section 354A, where a registered non-profit organisation merges with another registered non-profit organisation, the provisions of sec. 352 exit tax shall not apply if: (a) the other NPO has the same or similar objects; and (b) the merger fulfills prescribed statutory conditions.
- **Interest:** Failure to pay the exit tax on accreted income within the allowed time triggers simple interest of 1% per month (or part thereof) from the day after the due date until the actual date of payment

### **Other Violations [Sec. 353]**

Section 353 provides for an alternate method of taxation where a registered non-profit organisation (NPO) commits specified compliance defaults. Unlike sec. 351, which may result in cancellation of registration, sec. 353 imposes a tax computation mechanism while allowing the registration to continue.

### **Compliance Defaults**

The provisions of sec. 353 become applicable where a registered NPO commits any of the following defaults during a tax year:

1. Failure to maintain books of account and other prescribed documents in accordance with sec. 347.
2. Failure to get its accounts audited by an accountant or failure to furnish the audit report as required u/s 348.
3. Failure to furnish the return of income within the prescribed time u/s 349.
4. Where an NPO engaged in the advancement of any other object of general public utility (GPU) carries on commercial activities in violation of sec. 346, including breach of the prescribed conditions or the 20% limit on commercial receipts.

### **Computation of Taxable Income**

Where any of the above defaults occur, the taxable regular income of the NPO is recomputed under a special mechanism.

Under this mechanism, taxable income is calculated by reducing the regular income only by those expenditures that satisfy the conditions prescribed u/s 353(3). Consequently, the

NPO loses the benefit of several exemption provisions ordinarily available to registered organisations.

In particular:

- The statutory accumulation of 15% u/s 343 is not available.
- The exclusions available u/s 338 are denied.
- Specified Income taxable u/s 337 continues to be taxed separately at the prescribed rate of 30%.
- Any other income chargeable u/s 334 remains taxable in accordance with the normal provisions.

### **Conditions for Allowable Expenditure**

An expenditure is deductible while computing income u/s 353 only if all of the following conditions are satisfied:

1. The expenditure is incurred within India.
2. The expenditure is incurred wholly and exclusively for the charitable or religious objects for which the NPO is registered.
3. The expenditure is of a revenue nature. Capital expenditure is not allowable.
4. The expenditure is not incurred out of the corpus standing to the credit of the NPO at the end of the immediately preceding tax year.
5. The expenditure is not financed through any loan or borrowing.
6. Depreciation is not claimed on an asset where the acquisition cost of that asset has already been claimed as application of income in any tax year.
7. The expenditure is not in the nature of any contribution or donation to any other person or registered NPO.
8. The expenditure is otherwise allowable under the Act and is not hit by statutory disallowances relating to cash payments, tax deduction at source or similar restrictions.

### **Restriction on Other Deductions**

Section 353(4) contains a comprehensive restriction provision. It expressly provides that no deduction, allowance, set-off or expenditure other than those specifically permitted u/s 353(3) shall be allowed while computing taxable income under this section.

### **Approval for Donor Deductions [Sec. 354]**

An NPO must obtain approval u/s 354 to extend statutory tax deduction benefits to its contributors u/s 133(1)(b)(ii). Approval is strictly conditioned upon maintaining immaculate operational transparency.

1. The institution must not be expressed to be for the benefit of any particular religious community or caste.

2. The institution must be established in India for charitable purposes and the expenditure incurred for religious purposes during any tax year should not exceed 5% of its total income.
3. The trust deed, memorandum, rules or governing instrument must contain a provision ensuring that the assets of the institution are applied solely for charitable purposes and cannot be transferred for non-charitable purposes.
4. The institution must maintain regular books of account recording its receipts and expenditure.
5. It must prepare and furnish prescribed statements containing details of donations received and submit the same to the prescribed income-tax authority within the prescribed time.
6. It must furnish correction statements whenever required to rectify errors or update information previously furnished.
7. It must issue a certificate to every donor specifying the amount of donation and such other particulars as may be prescribed.

#### **Application, Approval and Validity**

Applications for approval are required to be filed within the following time limits depending upon the status of the applicant:

S. N.	Circumstances	Time Limit for Furnishing Application	Time Limit for Passing Order	Validity of Approval
1	Activities of the applicant have not commenced	At any time during the tax year from which approval is sought	Within 1 month from the end of the month in which the application is made	3 tax years commencing from the tax year in which the application is made
2	Activities of the applicant have commenced	At any time during the tax year from which approval is sought	Within 6 months from the end of the quarter in which the application is made	5 tax years commencing from the tax year in which the application is made
3	Applicant has provisional approval and activities have commenced	Within 6 months from the commencement of activities	Within 6 months from the end of the quarter in which the application is made	5 tax years commencing from the tax year in which the application is made
4	Provisional approval is due to expire and activities have not	At least 6 months prior to the expiry of provisional approval	Within 6 months from the end of the quarter in which	5 tax years following the tax year in which the application is

	commenced		the application is made	made
5	Existing approval of a registered NPO is due to expire	At least 6 months prior to the expiry of the approval	Within 6 months from the end of the quarter in which the application is made	5 tax years following the tax year in which the application is made

### **Verification and Inquiry**

- In cases where the activities of the institution have commenced or where renewal or conversion of provisional approval is sought, the Principal Commissioner or Commissioner may call for documents, information and explanations and may conduct such inquiries as considered necessary to verify:
  - The genuineness of the activities of the institution;
  - Compliance with the prescribed statutory conditions; and
  - Fulfilment of the requirements of sec. 354.
- If satisfied, the Commissioner shall pass an order granting approval.
- If not satisfied, the Commissioner shall provide the applicant a reasonable opportunity of being heard and may pass an order rejecting the application. In cases involving renewal or conversion applications, the Commissioner may also cancel the existing approval.

### **Provisional Approval**

Where the activities of a newly established institution have not commenced, the Commissioner may grant provisional approval without undertaking a detailed inquiry regarding the genuineness of activities. Such provisional approval enables the institution to commence operations and receive donations eligible for deduction while establishing its charitable activities.

### **Merger of registered non-profit organisation in certain cases [Sec. 35A]**

Where any registered non-profit organisation merges with any other registered non-profit organisation, the provisions of sec. 352 shall not apply if:

- a. the other registered non-profit organisation has same or similar objects; and
- b. the said merger fulfils such conditions as may be prescribed

### **Section Mapping**

Subject	Old Section	New Section
Application for registration	11 / 12A / 12AB	332
Switching over of regimes	11	333
Tax on income of registered non-profit	11 / 115BBC /	334

organisation	115BBI	
Regular income	11 / 12	335
Taxable regular income	11	336
Specified income	11 / 12 / 13 / 115BBC 115BBI	337
Income not to be included in regular income	11	338
Corpus donation	11	339
Deemed corpus donation	11	340
Application of income	11	341
Accumulated income	11 / 13	342
Deemed accumulated income	-	343
Business undertaking held as property	11	344
Restriction on commercial activities by a registered non-profit organisation	11	345
Restriction on commercial activities by registered non-profit organisation, carrying out advancement of any other object of general public utility	Proviso to 2(15)	346
Books of account	12A	347
Audit	12A	348
Return of income	12A	349
Permitted modes of investment	11	350 and Schedule XVI
Specified violation	12AB / 13	351
Tax on accreted income	115TD to 115TF	352
Other violations	13 / 115BBI	353
Approval for purpose of deduction under section 133(1)(b)(ii)	80G	354
Merger of registered non-profit organisation in certain cases	12AC	354A
Interpretation	2(15), 11, 12, 13, 115BBC, 115TD to 115TF	355

## MODE OF PAYMENT

### Mode of taking or accepting certain loans, deposits and specified sum [Sec. 185]

No person shall take or accept from another person, any loan or deposit or any specified sum, except through:

- a. an account payee cheque; or
- b. account payee bank draft; or
- c. electronic clearing system through a bank account; or
- d. through other prescribed electronic modes

*Taxpoint:* As per Rule 48, other electronic modes are

- Credit card;
- Debit card;
- Net banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay; and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC

if:

- i. the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or
- ii. the amount or the aggregate amount of any previously taken or accepted loan or deposit or specified sum by such person from such another person, which is remaining unpaid, whether due for repayment or not, as on the date of taking or accepting such amount as referred to in clause (i); or
- iii. the aggregate amount referred to in (i) and (ii),
  - is ₹20,000 or more.

*Taxpoint*

- Loan or deposit means loan or deposit of money.
- Specified sum means any sum of money receivable, whether as advance or otherwise,

in relation to transfer of an immovable property, whether or not the transfer takes place.

- However, in the case of any deposit or loan where,—
- a. such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member; or
  - b. such loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member
- then, the limit of ₹20,000 shall be increased to ₹2,00,000

### **Exception 1**

The provisions shall not apply to any loan or deposit or specified sum taken or accepted from or by:

- a. the Government;
- b. any banking company, post office savings bank or co-operative bank;
- c. any corporation established by a Central, State or Provincial Act;
- d. any Government company as defined in sec. 2(45) of the Companies Act, 2013;
- e. such other notified institution, association or body or class of institutions, associations or bodies.

### **Exception 2**

The provisions shall not apply to any loan or deposit or specified sum, where both, receiver and giver, are having agricultural income and neither of them has any income chargeable to tax

### **Penalty [Sec. 450]**

If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of sec. 185, the Assessing Officer may impose on him, a penalty equal to the amount of the loan or deposit or specified sum so taken or accepted.

### **Mode of undertaking transactions [Sec. 186]**

No person shall receive an amount of ₹2,00,000 or more:

- i. in aggregate from a person in a day; or
- ii. in respect of a single transaction; or
- iii. in respect of transactions relating to one event or occasion from a person,

except through -

- a) an account payee cheque; or
- b) account payee bank draft; or
- c) electronic clearing system through a bank account; or
- d) through other prescribed electronic modes (As per Rule 48, see sec. 185)

### **Exception**

The provisions shall not apply to:

- i. any receipt by:
  - a) Government;
  - b) any banking company, post office savings bank or co-operative bank;
- ii. transactions of the nature referred to in sec. 185
- iii. such other persons or class of persons or receipts, which the Central Government may notify.

☛ The Central Government vide Notification No. 28/2017 dated 05-04-2017 & 57/2017 dated 03-07-2017 has specified following receipt on which the provision is not applicable:

- a) receipt by a business correspondent on behalf of a banking company or co-operative bank, in accordance with the guidelines issued by the Reserve Bank of India;
- b) receipt by a white label automated teller machine (ATM) operator from retail outlet sources on behalf of a banking company or co-operative bank, in accordance with the authorisation issued by the Reserve Bank of India
- c) receipt from an agent by an issuer of pre-paid payment instruments, in accordance with the authorisation issued by the Reserve Bank of India
- d) receipt by a company or institution issuing credit cards against bills raised in respect of one or more credit cards;
- e) receipt pertaining to award / reward which is not includible in the total income as referred to in Schedule II (Table Sl. No. 10] [Old sec 10(17A)]

### **Clarification vide Circular No. 22/2017 dated 03-07-2017**

In respect of receipt in the nature of repayment of loan by Non-Banking Financial Companies (NBFCs) and Housing Finance Companies (HFCs), the receipt of one instalment of loan repayment in respect of a loan shall constitute a 'single transaction' as specified in sec. 186 and all the instalments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions sec. 186.

**Penalty [Sec. 451]**

The Assessing Officer may impose on a person, a penalty equal to the sum received by him in contravention of the provisions of section 186. However, no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

**Mode of repayment of certain loans or deposits or specified advances [Sec. 188]**

No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay

- a. any loan or deposit made with it; or
- b. any specified advance received by it

except through

- i. an account payee cheque;
- ii. account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified advance; or
- iii. by use of electronic clearing system through a bank account, or any other prescribed electronic mode (Rule 48)

if:

- A. the amount of the loan or deposit or specified advance together with the interest, if any, payable thereon, or
- B. the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person (either individually or jointly) on the date of such repayment together with the interest, if any, payable thereon, or
- C. the aggregate amount of the specified advances received by such person (either individually or jointly) on the date of such repayment together with the interest, if any, payable thereon,
  - is ₹ 20,000 or more:

**Taxpoint:**

- *Loan or deposit* means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature.
- *Specified advance* means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.
- Where the repayment is by a branch of a banking company or co-operative bank, such repayment may also be made by crediting the amount of such loan or deposit to the savings bank account or the current account (if any) with such branch of the person to whom such loan or deposit has to be repaid.
- However, in the case of any deposit or loan where,—

- a) such deposit is repaid to a member by a primary agricultural credit society or a primary co-operative agricultural and rural development bank; or
- b) such loan is repaid by a member to a primary agricultural credit society or a primary co-operative agricultural and rural development bank
  - then, the limit of ₹20,000 shall be increased to ₹2,00,000

### **Exception**

The provision of this section shall not apply to repayment of any loan or deposit or specified advance taken or accepted from:

- i. Government;
- ii. any banking company, post office savings bank or co-operative bank;
- iii. any corporation established by a Central, State or Provincial Act;
- iv. any Government company;
- v. such other notified institution, association or body or class of institutions, associations or bodies.

### **Penalty [Sec. 453]**

If a person repays any loan or deposit or specified advance referred to in sec. 188 otherwise than in accordance with the provisions of that section, the Assessing Officer may impose on him, a penalty equal to the loan or deposit or specified advance so repaid

## **Acceptance of payment through prescribed electronic mode [Sec. 187]**

**Applicable to:** Person carrying on business or profession having total sales / turnover / gross receipts in excess of ₹50 crores during the immediately preceding tax year.

**Compliance:** Such person is required to provide facility for accepting payment through prescribed electronic modes, in addition to other electronic modes, of payment, if any, being provided by such person

**Penalty:** If such person fails to provide such facility, then he is liable to pay penalty of ₹ 5,000 for every day during which such failure continues – [Sec. 452]

**Taxpoint:**

- No such penalty shall be imposable if such person proves that there were good and sufficient reasons for such failure.

## **Section Mapping**

Particulars	Sec. under 1961 Act	Sec. under 2025 Act
Mode of taking or accepting certain loans, deposits and specified sum	269SS	185



Mode of undertaking transactions	269ST	186
Acceptance of payment through prescribed electronic modes	269SU	187
Mode of repayment of certain loans or deposits or specified advances	269T	188
Interpretation		189

**APPENDIX I**  
**(Rule 25)**  
**TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE**

**PART A: TANGIBLE ASSETS**

S.No.	Block of assets	Depreciation allowance as percentage of written down value
<b>I.</b>	<b>Buildings [See Notes 1 to 4 below]</b>	
1.	Buildings which are used mainly for residential purposes except hotels and boarding houses	5
2.	Buildings other than those used mainly for residential purposes and not covered by sub-items (1) above and (3) below	10
3.	Buildings for installing machinery and plant forming part of water supply project or water treatment system and which is put to use for the purpose of business of providing infrastructure facilities under section 80-IA(4)(i) of the Income-tax Act, 1961	40
4.	Purely temporary erections such as wooden structures	40
<b>II.</b>	<b>Furniture and Fittings</b>	
	Furniture and fittings including electrical fittings [See Note 5 below]	10
<b>III.</b>	<b>Machinery and Plant</b>	
1.	Machinery and plant other than those covered by sub-items (2), (3) and (8) below:	15
2. (i)	Motor cars, other than those used in a business of running them on hire, except those covered under entry (ii) acquired on or after the 01-04-1990;	15
2. (ii)	Motor cars, other than those used in a business of running them on hire, acquired on or after 23-08-2019 but before 01-04-2020 and is put to use before 01-04-2020.	30
3. (i)	Aeroplanes – Aeroengines	40
3. (ii)	Motor buses, motor lorries and motor taxis used in a business of running them on hire.	30
3. (iii)	Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired on or after 23-08-2019 but before 01-04-2020 and is put to use before 01-04-2020.	45
3. (iv)	New commercial vehicle which is acquired on or after 01-01-2009 but before 01-10-2009 and is put to use before 01-10-2009 for the purposes of business or profession [See Note 6 below]	40
3. (v)	Moulds used in rubber and plastic goods factories	30
3. (vi)	Air pollution control equipment, being— a. Electrostatic precipitation systems b. Felt-filter systems c. Dust collector systems d. Scrubber-counter current/venturi/packed bed/cyclonic scrubbers e. Ash handling system and evacuation system	40
3. (vii)	Water pollution control equipment, being: a. Mechanical screen systems	40

S.No.	Block of assets	Depreciation allowance as percentage of written down value
	b. Aerated detritus chambers (including air compressor) c. Mechanically skimmed oil and grease removal systems d. Chemical feed systems and flash mixing equipment e. Mechanical flocculators and mechanical reactors f. Diffused air/mechanically aerated activated sludge systems g. Aerated lagoon systems h. Biofilters i. Methane-recovery anaerobic digester systems j. Air flotation systems k. Air/steam stripping systems l. Urea Hydrolysis systems m. Marine outfall systems n. Centrifuge for dewatering sludge o. Rotating biological contractor or bio-disc p. Ion exchange resin column q. Activated carbon column	
<b>3. (viii)</b>	Solid waste, control equipment being: a. caustic/lime/chrome/mineral/cryolite recovery systems b. Solid waste recycling and resource recovery systems	40
<b>3. (ix)</b>	Machinery and plant, used in semi-conductor industry covering all Integrated Circuits (ICs) (excluding hybrid integrated circuits) ranging from Small Scale Integration (SSI) to Large Scale Integration/Very Large Scale Integration (LSI/VLSI) as also discrete semi-conductor devices such as diodes, transistors, thyristors, triacs, etc., other than those covered by entries (iv), (v) and (vi) of this sub-item and sub-item (7) below.	30
<b>3. (x)</b>	Life saving medical equipment, being: a. D.C. Defibrillators for internal use and pace makers b. Heamodialysors c. Heart lung machine d. Cobalt Therapy Unit e. Colour Doppler f. SPECT Gamma Camera g. Vascular Angiography System including Digital Subtraction Angiography h. Ventilator used with anaesthesia apparatus i. Magnetic Resonance Imaging System j. Surgical Laser k. Ventilator other than those used with anaesthesia l. Gamma knife m. Bone Marrow Transplant Equipment including silastic long standing intravenous catheters for chemotherapy n. Fibre optic endoscopes including, Paediatric resectoscope/audit resectoscope, Peritoneoscopes, Arthroscope,	40

S.No.	Block of assets	Depreciation allowance as percentage of written down value
	Video Laryngo Bronchoscope and Video Oesophago Gastroscope, Stroboscope, Fibreoptic Flexible Oesophago Gastroscope o. Laparoscope (single incision)	
4.	Containers made of glass or plastic used as re-fills	40
5.	Computers including computer software (See Note 7 below)	40
6.	Machinery and plant, acquired and installed on or after 01-09-2002 in a water supply project or a water treatment system and which is put to use for the purpose of business of providing infrastructure facility under clause (i) of sub-section (4) of section 80-IA of the Income-tax Act, 1961 [See Notes 4 and 8 below]	40
7.	Specific Assets & Specialized Industrial Machinery:	
(i)	Wooden parts used in artificial silk manufacturing machinery	40
(ii)	Cinematograph films - bulbs of studio lights	40
(iii)	Match factories - Wooden match frames	40
(iv)	Mines and quarries: a. Tubs winding ropes, haulage ropes and sand stowing pipes b. Safety lamps	40
(v)	Salt works - Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material	40
(vi)	Flour mills - Rollers	40
(vii)	Iron and steel industry - Rolling mill rolls	40
(viii)	Sugar works - Rollers	40
(ix)	Energy saving devices, being— A. Specialised boilers and furnaces: a. Ignifluid/fluidized bed boilers b. Flameless furnaces and continuous pusher type furnaces c. Fluidized bed type heat treatment furnaces d. High efficiency boilers (thermal efficiency higher than 75% in case of coal fired and 80 per cent in case of oil/gas fired boilers)  B. Instrumentation and monitoring system for monitoring energy flows: a. Automatic electrical load monitoring systems b. Digital heat loss meters c. Micro-processor based control systems d. Infra-red thermography e. Meters for measuring heat losses, furnace oil flow, steam flow, electric energy and power factor meters f. Maximum demand indicator and clamp on power meters g. Exhaust gases analyzer h. Fuel oil pump test bench  C. Waste heat recovery equipment:	40

S.No.	Block of assets	Depreciation allowance as percentage of written down value
	<ul style="list-style-type: none"> <li>a. Economisers and feed water heaters</li> <li>b. Recuperators and air pre-heaters</li> <li>c. Heat pumps</li> <li>d. Thermal energy wheel for high and low temperature waste heat recovery</li>   <li>D. Co-generation systems:                             <ul style="list-style-type: none"> <li>a. Back pressure pass out, controlled extraction, extraction-cum-condensing turbines for co-generation along with pressure boilers</li> <li>b. Vapour absorption refrigeration systems</li> <li>c. Organic rankine cycle power systems</li> <li>d. Low inlet pressure small steam turbines</li> </ul> </li>   <li>E. Electrical equipment:                             <ul style="list-style-type: none"> <li>a. Shunt capacitors and synchronous condenser systems</li> <li>b. Automatic power cut-off devices (relays) mounted on individual motors</li> <li>c. Automatic voltage controller</li> <li>d. Power factor controller for AC motors</li> <li>e. Solid state devices for controlling motor speeds</li> <li>f. Thermally energy-efficient stenters (which require 800 or less kilocalories of heat to evaporate one kilogram of water)</li> <li>g. Series compensation equipment</li> <li>h. Flexible AC Transmission (FACT) devices - Thyristor controlled series compensation equipment</li> <li>i. Time of Day (ToD) energy meters</li> <li>j. Equipment to establish transmission highways for National Power Grid to facilitate transfer of surplus power of one region to the deficient region</li> <li>k. Remote terminal units/intelligent electronic devices, computer hardware/software, router/bridges, other required equipment and associated communication systems for supervisory control and data acquisition systems, energy management systems and distribution management systems for power transmission systems</li> <li>l. Special energy meters for Availability Based Tariff (ABT)</li> </ul> </li>   <li>F. Burners:                             <ul style="list-style-type: none"> <li>a. 0 to 10 % excess air burners</li> <li>b. Emulsion burners</li> <li>c. Burners using air with high pre-heat temperature (above 300°C)</li> </ul> </li>   <li>G. Other equipment:                             <ul style="list-style-type: none"> <li>a. Wet air oxidation equipment for recovery of chemicals and</li> </ul> </li> </ul>	

S.No.	Block of assets	Depreciation allowance as percentage of written down value
	heat b. Mechanical vapour recompressors c. Thin film evaporators d. Automatic micro-processor based load demand controllers e. Coal based producer gas plants f. Fluid drives and fluid couplings g. Turbo charges/super-charges h. Sealed radiation sources for radiation processing plants	
<b>(x)</b>	Gas cylinders including valves and regulators	40
<b>(xi)</b>	Glass manufacturing concerns - Direct fire glass melting furnaces	40
<b>(xii)</b>	Mineral oil concerns: a. Plant used in field operations (above ground) distribution - Returnable packages b. Plant used in field operations (below ground), but not including kerbside pumps including underground tanks and fittings used in field operations (distribution) by mineral oil concerns c. Oil wells not covered in clauses (a) and (b)	40
<b>(xiii)</b>	Renewable energy devices being: a. Flat plate solar collectors b. Concentrating and pipe type solar collectors c. Solar cookers d. Solar water heaters and systems e. Air/gas/fluid heating systems f. Solar crop driers and systems g. Solar refrigeration, cold storages and air conditioning systems h. Solar steels and desalination systems i. Solar power generating systems j. Solar pumps based on solar-thermal and solar-photovoltaic conversion k. Solar-photovoltaic modules and panels for water pumping and other applications l. Wind mills and any specially designed devices which run on wind mills installed on or after 01-04-2014 m. Any special devices including electric generators and pumps running on wind energy installed on or after 01-04-2014 n. Biogas-plant and biogas-engines o. Electrically operated vehicles including battery powered or fuel-cell powered vehicles p. Agricultural and municipal waste conversion devices producing energy q. Equipment for utilising ocean waste and thermal energy r. Machinery and plant used in the manufacture of any of the above sub-items	40
<b>8. (i)</b>	Books owned by assessee carrying on a profession: a. Books, being annual publications b. Books, other than those covered by entry (a) above	40

S.No.	Block of assets	Depreciation allowance as percentage of written down value
8. (ii)	Books owned by assessee carrying on business in running lending libraries	40
<b>IV.</b>	<b>SHIPS</b>	
(1)	Ocean-going ships including dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes and fishing vessels with wooden hull	20
(2)	Vessels ordinarily operating on inland waters, not covered by sub-item (3) below	20
(3)	Vessels ordinarily operating on inland waters being speed boats [See Note 9 below]	20

#### PART B: INTANGIBLE ASSETS

S.No.	Block of assets	Depreciation allowance as percentage of written down value
1.	Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature	25

#### Notes:

- "Buildings" include roads, bridges, culverts, wells and tubewells.
- A building shall be deemed to be a building used mainly for residential purposes, if the built up floor area thereof used for residential purposes is not less than sixty-six and two-third per cent of its total built-up floor area and shall include any such building in the factory premises.
- In respect of any structure or work by way of renovation or improvement in or in relation to a building referred to in sec. 33(6), the percentage to be applied will be the percentage specified against sub-item (1) or (2) of item 1 of PART A as may be appropriate to the class of building in or in relation to which the renovation or improvement is effected. Where the structure is constructed or the work is done by way of extension of any such building, the percentage to be applied would be such percentage as would be appropriate, as if the structure or work constituted a separate building.
- Water treatment system includes system for desalination, demineralisation and purification of water.
- "Electrical fittings" include electrical wiring, switches, sockets, other fittings and fans, etc.
- "Commercial vehicle" means "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle" and "medium passenger motor vehicle" but does not include "maxi-cab", "motor-cab", "tractor" and "road-roller". The expressions "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle", "medium passenger motor vehicle", "maxi-cab", "motor-cab", "tractor" and "road-roller" shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988.
- "Computer software" means any computer program recorded on any disc, tape, perforated media or other information storage device.
- Machinery and plant includes pipes needed for delivery from the source of supply of raw water to the plant and from the plant to the storage facility.

9. "Speed boat" means a motor boat driven by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 24 kilometres per hour in still water and so designed that when running at a speed, it will plane, i.e., its bow will rise from the water.

**APPENDIX II  
(Rule 25)**

**DEPRECIATION RATES APPLICABLE TO POWER GENERATING UNITS**

<b>S.No.</b>	<b>Class of assets</b>	<b>Depreciation allowance as percentage of actual cost</b>
<b>(a)</b>	Plant and Machinery in generating stations including plant foundations:	
	i. Hydro-electric	3.4
	ii. Steam electric NHRS & Waste heat recovery Boilers/plants	7.84
	iii. Diesel electric and Gas plant	8.24
<b>(b)</b>	Cooling towers and circulating water systems	7.84
<b>(c)</b>	Hydraulic works forming part of Hydro-electric system including:	
	i. Dams, spillways weirs, canals, reinforced concrete flumes and syphons	1.95
	ii. Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks), hydraulic control valves and other hydraulic works.	3.4
<b>(d)</b>	Building and civil engineering works of permanent character, not mentioned above:	
	i. Office and showrooms	3.02
	ii. Containing Thermo-electric generating plant	7.84
	iii. Containing Hydro-Electric generating plant	3.4
	iv. Temporary erection such as wooden structures	33.4
	v. Roads other than Kutchra roads	3.02
	vi. Others	3.02
<b>(e)</b>	Transformers, transformer (Kiosk) sub-station equipment and other fixed apparatus (including plant foundations):	
	i. Transformers (including foundations) having a rating of 100 kilovolt amperes and over	7.81
	ii. Others	7.84
<b>(f)</b>	Switchgear including cable connections	7.84
<b>(g)</b>	Lightning arrester:	
	i. Station type	7.84
	ii. Pole type	12.77
	iii. Synchronous condenser	5.27
<b>(h)</b>	Batteries	33.4
<b>(i)</b>	i. Underground cable including joint boxes and disconnected boxes:	5.27
	ii. Cable duct system	3.02
	iii. Overhead lines including supports:	
	1. Lines on fabricated steel operating at nominal voltages	5.27

	higher than 66 kilovolt	
	2. Lines on steel supports operating at nominal voltages higher than 13.2 kilovolts but not exceeding 66 kilovolts	7.84
	3. Lines on steel or reinforced concrete supports	7.84
	4. Lines on treated wood supports	7.84
<b>(j)</b>	Meters	12.77
<b>(k)</b>	Self-propelled vehicles	33.40
<b>(l)</b>	Air-conditioning plants:	
	i. Static	12.77
	ii. Portable	33.40
<b>(m)</b>	Office assets & fittings:	
	i. Office furniture and fittings	12.77
	ii. Office equipments	12.77
	iii. Internal wiring including fittings and apparatus	12.77
	iv. Street light fittings	12.77
<b>(n)</b>	Apparatus let on hire:	
	i. Other than motors	33.4
	ii. Motors	12.77
<b>(o)</b>	Communication equipment:	
	i. Radio and high frequency carrier system	12.77
	ii. Telephone lines and telephones	12.77
<b>(p)</b>	Any other assets not covered above	7.69

## FORM, DUE DATE & PENALTY

Penalty is imposed on an assessee for violating the different provisions of the Act. The provisions of penalty are tabulated below:

Penalty Section	Nature of default	Form	Due Date	Min Penalty	Max Penalty
446(1)	Any person who is required to furnish a statement in respect of a transaction of a crypto-asset u/s 509(1)	167	31 <sup>st</sup> May of next tax year	₹ 200 per day for which such failure continues	
454	Where any person, who is required to furnish a statement of financial transaction or reportable account u/s 508(1), fails to furnish such statement or reportable account within the period specified in the notice issued u/s 508(7)	165	31 <sup>st</sup> May of next tax year	₹ 1,000 for every day during which the failure continues	₹ 1,00,000
456	Any eligible investment fund required to furnish a statement or any information or document under paragraph 4 of Schedule I, fails to do so within the time prescribed under the said paragraph			₹ 5,00,000	



Penalty Section	Nature of default	Form	Due Date	Min Penalty	Max Penalty
457	Failure to furnish information or documents as required u/s 171	56 & 57	Form 56: Due date of filing return Form 57: 30 days before due date of furnishing Form 56	2% of the value of the international transaction or specified domestic transaction.	
458	Failure to furnish information or documents as required u/s 506	163	90 days from the end of the financial year	2% of the value of the transaction, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; In other case: ₹ 5,00,000	

Penalty Section	Nature of default	Form	Due Date	Min Penalty	Max Penalty
459(1)	Failure by any reporting entity to furnish the report referred to in sec. 511(2) in respect of a reporting accounting year	59	12 months from the end of the reporting accounting year	<ul style="list-style-type: none"> <li>• Failure does not exceed one month: ₹ 5,000 per day</li> <li>• Failure continues beyond the period of one month: ₹ 15,000 per day</li> <li>• Failure continues after an order of penalty has been served on the entity: ₹ 50,000 per day from the date of service of such order</li> </ul>	
460	Fails to furnish statement u/s 505 within prescribed date	162	Within 8 months from the end of the financial year	<ul style="list-style-type: none"> <li>- Where delay does not exceed 3 months: ₹ 1,000 per day</li> <li>- In other case: ₹ 1,00,000</li> </ul>	
461 <sup>1</sup>	Failure to furnish TDS / TCS Return or furnishing inaccurate details in these Return	138 / 140 / 143 / 144	First 3 quarter: next 1 month March quarter: next 2 months	₹ 10,000	₹ 1,00,000

<sup>1</sup> No penalty u/s 461 shall be levied if the person proves that after paying TDS / TCS along with the fee and interest, if any, to the credit of the Central Government, he had delivered the statement before the expiry of 1 month from the time prescribed for delivering such statement.



Penalty Section	Nature of default	Form	Due Date	Min Penalty	Max Penalty
464	Where a. the research association, university, college or other institution referred to in sec. 45, if it fails to deliver or furnish the documents as may be prescribed u/s 45(4)(a);; or b. the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed u/s 354(1)(e), or furnish a certificate prescribed u/s 354(1)(g)	10 / 113 / 114	Form 10: Within 3 months from the date of granting approval Form 113 & 114: 31 <sup>st</sup> May of the next year	10,000	1,00,000
465(2)(c)	Failure to furnish in due time any of the returns, statements or particulars mentioned in sec. 252, 397(3) or 507	164	60 days from the end of the tax year		
465(2)(f)	Failure to deliver or cause to be delivered in due time a copy of the declaration mentioned in sec. 393(7)	121	7 <sup>th</sup> after the end of the quarter		

Penalty Section	Nature of default	Form	Due Date	Min Penalty	Max Penalty
465(2)(g)	Failure to furnish a certificate u/s 395	130 / 131 / 133	Form 130: 15 <sup>th</sup> June of next year Other: 15 days from the due date of furnishing quarterly return		
465(2)(i)	Failure to furnish a statement u/s 392(5)(a)	123	15 <sup>th</sup> June of next year		
465(2)(j)	Failure to deliver a copy of declaration u/s 394(3) within due time	127	7 <sup>th</sup> of the next month		
466	Failure to comply with the provisions of sec. 254	87	--	Maximum up to ₹ 25,000	



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